

ALABAMA LAWS
(and Joint Resolutions)
OF THE
LEGISLATURE OF ALABAMA
PASSED AT THE
ORGANIZATIONAL SESSION 1971
FIRST SPECIAL SESSION 1971
REGULAR SESSION 1971
SECOND SPECIAL SESSION 1971
THIRD SPECIAL SESSION 1971

IN FIVE VOLUMES

VOL. II



GEORGE C. WALLACE, Governor
JERE BEASLEY, Lieutenant Governor
PIERRE PELHAM, President Pro-Tem of the Senate
TOM GLOOR, Speaker Pro-Tem of the House
McDOWELL LEE, Secretary of the Senate
JOHN W. PEMBERTON, Clerk of the House

WITH AN INDEX PREPARED BY THE
LEGISLATIVE REFERENCE SERVICE

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1971 Organizational Session, 1971 Special Sessions and the 1971 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Mabel Amos
Secretary of State.

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ALABAMA LAWS

And Joint Resolutions

REGULAR SESSION, 1971

Act No. 407 H. 198 — Timmons, Taylor, Therrell, Wallace, Wise, O'Daniel, Turnham, Cottingham, Nettles, Owens, Gloor, Adwell, Jones (E), Boles, Parker (H), Naramore, Crowe, Falkenburg, Downing, Erdreich, Stewart, Doss, Weeks, Boutwell, McBride, Waggoner, Meeks, Jones (F), Straiton, Reed (T), Harris, Headley, Mims, Warren, Perloff, Lang, Cauthen, McDonald, Lutz, Grainger, Carter, King, Wynot, Grey (D), Reid (R), May, Parker (T), Easters, Brassell, Connell, Turner, Edwards, Smith (K), Agee, Wood, Bank, Waldrop, Hobbie, Smith (P), Flippo, Casey, Goodwin, Roberts

AN ACT

To provide a comprehensive revision, consolidation and classification of the laws of the State of Alabama relating to insurance and to the insurance business; to regulate the incorporation, formation, and affairs of domestic insurance companies, societies, and associations, and the admission of foreign alien insurance companies, societies, and associations; to provide their rights, powers and immunities, and to prescribe the conditions on which insurance companies, societies, and associations organized, existing, or authorized under this Act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, and associations engaged in or affected by an insurance business may exercise their powers; to provide for service of process on unauthorized insurers and the conditions for defense of actions brought against them in this State; to provide for certain powers, rights, obligations, and consequences as to insurers and other persons relative to insurance contracts and annuity contracts and matters arising from such contracts; to provide for the imposition of licenses, fees, and taxes and for the disposition thereof; to provide for the departmental supervision and regulation of the insurance business within or relative to this State; making appropriations; to provide penalties for the violation of this Act; to repeal certain laws and Acts, and for other purposes.

Be It Enacted by the Legislature of Alabama:

CHAPTER 1

SCOPE OF CODE

Section 1. **SHORT TITLE.** This Act constitutes the Alabama insurance code.

Section 2. **“INSURANCE” DEFINED.** “Insurance” is a contract whereby one undertakes to indemnify another or pay or provide a specified amount or benefit upon determinable contingencies.

Section 3. **“INSURER” DEFINED.** “Insurer” includes every person engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance.

Section 4. **“PERSON” DEFINED.** “Person” includes an individual, insurer, company, association, organization, Lloyd’s insurer, society, reciprocal insurer or interinsurance exchange, partnership, syndicate, business trust, corporation and every legal entity.

Section 5. **“COMMISSIONER,” “DEPARTMENT” DEFINED.** (1) “Commissioner” means the Commissioner of Insurance of this state.

(2) “Department” means the Department of Insurance of this state.

Section 6. **“DOMESTIC,” “FOREIGN,” “ALIEN” INSURER DEFINED.** (1) A “Domestic” insurer is one formed under the laws of this state.

(2) A “foreign” insurer is one formed under the laws of any jurisdiction other than this state.

(3) An “alien” insurer is one formed under the laws of any country other than the United States of America, its states, district, territories and commonwealths.

(4) Except where distinguished by context, “foreign” insurers includes also “alien” insurers.

Section 7. **“STATE” DEFINED.** When used in context signifying a jurisdiction other than the state of Alabama, “state” means any state, district, territory, commonwealth or possession of the United States of America.

Section 8. **“AUTHORIZED,” “UNAUTHORIZED” INSURER DEFINED.** (1) An “authorized” insurer is one duly authorized, by a subsisting certificate of authority issued by the Commissioner, to

transact insurance in this State.

- (2) An "unauthorized" insurer is one not so authorized.

Section 9. "TRANSACTIONING" INSURANCE. "Transact" with respect to insurance includes any of the following:

- (1) Solicitation and inducement.
- (2) Preliminary negotiations.
- (3) Effectuation of a contract of insurance.
- (4) Transaction of matters subsequent to effectuation of a contract of insurance and arising out of it.

Section 10. COMPLIANCE REQUIRED. No person shall transact a business of insurance in Alabama, or relative to a subject resident, located or to be performed in Alabama, without complying with the applicable provisions of this code.

Section 11. APPLICATION OF CODE AS TO PARTICULAR TYPES OF INSURERS. No provision of this code shall apply with respect to:

- (1) Domestic mutual aid associations (as identified in chapter 27), except as stated in chapter 27 (Mutual aid associations).
- (2) Fraternal benefit societies (as identified in chapter 31), except as stated in chapters 31 (Fraternal benefit societies) and 32 (Conversion of fraternal benefit societies).

Section 12. EXEMPTED ORGANIZATIONS, ACTIVITIES. This code shall not apply as to:

- (1) Any fraternal or other organization or activity which is exempted from the provisions of chapter 31 (fraternal benefit societies), under section 676 of this code, except to the extent provided in such section.
- (2) Non-profit corporations for establishment of hospitalization plan under Title 28, Chapter 10, Article 3 of the Alabama Code, 1940, as amended, except to the extent now or hereafter provided in such laws.
- (3) The insurance department of a brotherhood or labor union, the members of which are subject to the Act of Congress known as the Railway Labor Act.

Section 13. PARTICULAR PROVISIONS PREVAIL. Provisions of this code relative to a particular kind of insurance or a particular type of insurer or to a particular matter shall prevail over other provisions in this code relating to insurance in general or insurers in general or to such matters in general.

Section 14. CAPTIONS NOT TO AFFECT MEANING. The scope and meaning of any provision shall not be limited or

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otherwise affected by the caption or heading of any chapter, section, or provision.

Section 15. GENERAL PENALTY. Each wilful violation of this code for which a greater penalty is not provided by another provision of this code or by other applicable laws of this state, shall in addition to any applicable prescribed denial, suspension or revocation of certificate of authority or license be punishable as a misdemeanor, upon conviction, by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail, or by sentence to hard labor for the county, for a period not to exceed one (1) year or by both such fine and imprisonment or hard labor in the discretion of the court. Each instance of violation shall be considered a separate offense.

CHAPTER 2

THE COMMISSIONER OF INSURANCE

Section 16. DEPARTMENT OF INSURANCE. (1) There shall be a Department of Insurance of the State of Alabama, with such subordinate bureaus and divisions as the Commissioner determines to be necessary.

(2) The expenses of operating the department shall be paid out of funds appropriated to it by the Legislature, or otherwise made available for the purpose.

Section 17. COMMISSIONER'S APPOINTMENT, QUALIFICATIONS, REMOVAL. (1) A Commissioner of Insurance shall be chief executive officer of the department. The Commissioner shall be appointed by the Governor. He shall serve for a term concurrent with that of the Governor by whom he is appointed, or for the unexpired portion thereof.

(2) The Commissioner shall be selected with special reference to his training, experience and capacity. He shall not be a candidate for nor hold any other public office of trust, nor be a member of any political committee. If he becomes a candidate for public office or becomes a member of a political committee, his office as Commissioner shall be immediately vacated.

Section 18. COMMISSIONER'S OATH, BOND. Before entering upon the duties of his office the Commissioner shall take and subscribe to the oath prescribed by Article XVI, Section 279 of the State Constitution and give bond in favor of the State of Alabama in the penal sum of fifty thousand (\$50,000.00) dollars. The surety on the bond shall be a corporate surety authorized to transact such business in this state. The form of the bond and surety shall be subject to the Governor's approval. The bond and oath shall be filed with the Secretary of State.

Section 19. COMMISSIONER'S COMPENSATION: TIME. (1) The Commissioner shall receive such annual salary as fixed by the Governor in the same manner as the salaries of other appointive department heads. Such salary shall be payable in the same manner as other state employees are paid.

(2) The Commissioner shall devote his entire time to the duties of his office.

Section 20. SEAL; CERTIFICATES AND CERTIFIED COPIES. (1) The Commissioner shall have an official seal as heretofore provided him by the State of Alabama.

(2) All certificates executed by the Commissioner, other than

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licenses of agents, brokers, solicitors, adjusters and similar licenses, shall bear his seal.

(3) Every such certificate so executed and sealed under the authority conferred upon the Commissioner by law may be recorded in the proper recording office in this state in the same manner and with the same effect as a deed regularly acknowledged or proven.

(4) Every certificate and other document or paper executed by the Commissioner pursuant to any authority conferred upon him by law, and sealed with the seal of his office, and all copies or photographic copies of papers certified by him and authenticated by such seal shall, in all cases, be evidence equally and in like manner as the original thereof, and shall have the same force and effect as the original would in any suit or proceedings in any court of this state.

(5) The Commissioner shall collect such fees and charges for the use of his official seal as are provided for under section 76 (filing, license and miscellaneous fees).

Section 21. OFFICES. (1) The Commissioner's offices shall be located at the state capitol. The Commissioner may have a service office at Birmingham and in such other cities of this state as he may deem necessary.

(2) The Commissioner shall keep his offices open at all reasonable times for the transaction of public business.

Section 22. DEPUTIES AND ASSISTANTS. (1) Subject to the Merit System Act and rules and regulations issued pursuant thereto, the Commissioner shall prescribe the qualifications and duties of, appoint, employ, bond and remove such assistants, deputies, actuaries, examiners and other employees as he deems necessary for the efficient performance of his duties under this code.

(2) The Commissioner shall fix the compensation of all such personnel in accordance with the Merit System Act and the pay plan of the state personnel department.

(3) The Commissioner may contract for and procure on a basis of fee, and without giving such persons any status in the classified service of the state, such independently contracting actuarial, technical and other similar professional services as he may from time to time require for the discharge of his duties.

Section 23. LEGAL COUNSEL. The Attorney General shall assign to the department an Assistant Attorney General who shall render to the Commissioner such legal services as may be required.

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Section 24. **EXPENSE ALLOWANCE.** In addition to compensation for their services the Commissioner and deputy Commissioners shall receive actual expenses for travel on official business. Assistants and employees of the department shall be paid expenses for travel on official business as may be authorized by the Commissioner and incurred by them in the performance of their duties, in the same manner and in the same amounts as such expenses are paid to all other state employees.

Section 25. **PROHIBITED INTERESTS, REWARDS.** (1) The Commissioner or any deputy, examiner, assistant or employee of the Commissioner shall not be financially interested, directly or indirectly, in any insurer, insurance agency or insurance transaction except as a policyholder or claimant under a policy; except, that as to such matters wherein a conflict of interests does not exist on the part of any such individual, the Commissioner may employ or retain from time to time insurance actuaries, accountants or other professional personnel who are independently practicing their professions even though similarly employed or retained by insurers or others.

(2) The Commissioner or any deputy, examiner, assistant or employee of the Commissioner, shall not be given nor receive any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by law, for any service rendered or to be rendered as such Commissioner, deputy, assistant, examiner or employee or in connection therewith. This Section shall not apply to any person who is holding office or position on date of enactment of this Code.

Section 26. **DELEGATION OF POWERS.** (1) The Commissioner may delegate to any deputy, assistant, examiner or employee of the department the exercise or discharge in the Commissioner's name of any power, duty, or function, whether ministerial, discretionary or of whatever character, vested by this code in the Commissioner.

(2) The Commissioner is responsible for the official acts of his deputy, assistant, examiner or employee acting in the Commissioner's name and by his authority.

Section 27. **GENERAL POWERS, DUTIES.** The Commissioner shall:

(1) Organize, supervise and administer the department of insurance so that it will perform its lawful functions efficiently and effectively;

(2) Enforce the provisions of this code;

(3) Execute the duties imposed upon him by this code;

(4) Have the powers and authority expressly conferred upon

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him by or reasonably implied from the provisions of this code;

(5) Sign and execute in the name of the state, by "the state department of insurance," all contracts or agreements with the federal government or its agencies, other states or political subdivisions thereof, political subdivisions of this state or with private persons;

(6) Conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations or investigations shall be borne by the state except as otherwise expressly provided;

(7) Invoke any legal, equitable or special remedy for the enforcement of orders or the provisions of this code;

(8) Have such powers and perform such duties as may be granted to or required of the "Superintendent of Insurance" of this state under laws remaining in force after the effective date of this code; and

(9) Have such additional powers and duties as may be provided by other laws of this state.

Section 28. RULES AND REGULATIONS. (1) The Commissioner may make reasonable rules and regulations necessary for the effectuation of any provision of this code. No such rule or regulation shall extend, modify, or conflict with any law of this state or the reasonable implications thereof.

(2) Any such rule or regulation affecting persons or matters other than the personnel or the internal affairs of the Commissioner's office shall be made or amended only after a hearing thereon of which notice was given as required by section 44. If reasonably possible the Commissioner shall set forth the proposed rule or regulation or amendment in or with the notice of hearing.

(3) No such rule or regulation as to which a hearing is required under subsection (2) above shall be effective until after it has been on file as a public record in the Commissioner's office and in the office of the Secretary of State for at least ten (10) days.

(4) Upon request and payment of the reasonable cost thereof if required and fixed by the Commissioner, the Commissioner shall furnish a copy of any such rule or regulation to any person so requesting.

Section 29. ORDERS, NOTICES. (1) Orders and notices of the Commissioner shall be effective only when in writing signed by him or by his authority.

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(2) Every such order shall state its effective date, and shall concisely state:

- (a) Its intent or purpose;
- (b) The grounds on which based;
- (c) The provisions of this code pursuant to which action is taken or proposed to be taken; but failure to so designate a particular provision shall not deprive the Commissioner of the right to rely thereon.

(3) Except as may be provided in this code respecting particular procedures, an order or notice may be given by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to him at his principal place of business as last of record in the department. Notice so mailed shall be deemed to have been given when deposited in a letter depository of a United States post office.

Section 30. ENFORCEMENT. The Commissioner may institute such suits or other proceedings in law or equity as may be required for enforcement of any provisions of this code. If the Commissioner has reason to believe that any person has violated any provision of this code for which criminal prosecution would be in order, he shall give the information relative thereto to the Attorney General or the District Attorney having jurisdiction of any such violation. The Attorney General shall promptly institute such action or proceeding against such person as the information may require or justify.

Section 31. RECORDS; REPRODUCTION, DESTRUCTION.

(1) The Commissioner shall keep and preserve in permanent form accurate and complete records of his proceedings, including also a concise statement of the result of such examination of insurers by the Commissioner, record and file all bonds and contracts, and shall file such records in the department. The Commissioner is responsible for the custody and preservation of all records, documents, and files of the department.

(2) The records of the Commissioner and insurance filings in his office shall be open to public inspection, except as otherwise provided by this code.

(3) The Commissioner may photograph, microphotograph or reproduce on film, whereby each page will be reproduced in exact conformity with the original, all financial records, financial statements of domestic insurers, reports of business transacted in this state by foreign insurers, reports of examination of domestic insurers, and such other records and documents on file in his office as he may in his discretion select.

(4) To facilitate efficient use of floor space and filing equipment in his offices the Commissioner may destroy records

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and documents as follows:

- (a) General correspondence files over three (3) years old;
- (b) Agent, broker, solicitor, adjuster and similar license files over two (2) years old;
- (c) Insurer certificate of authority files over two (2) years old;
- (d) All documents and records which have been photographed or otherwise reproduced as provided in subsection (3), above, and such reproduction has been filed, and after audit of the Commissioner's office has been completed for the period embracing the dates of such documents and records;
- (e) All other records, documents, and files not expressly provided for in subdivisions (a) through (d), above.

Section 32. REPRODUCTION AND CERTIFIED COPIES OF RECORDS; AS EVIDENCE; SUBPOENAS DUCES TECUM. (1) Photographs or microphotographs in the form of film or prints of documents and records made under section 31 (3) shall have the same force and effect as the originals thereof, and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be as admissible in evidence as the originals.

(2) Upon request of any person and payment of the applicable fee, the Commissioner shall give a certified copy of any record in his office which is then subject to public inspection.

(3) Copies of original records or documents in his office certified by the Commissioner shall be received in evidence in all courts as if they were originals.

(4) If at any time the Commissioner or any deputy, assistant, examiner, or other employee of the department is required by subpoena duces tecum to produce in any court or proceeding in this state any record of the department or copy thereof for the purpose of offering the same in evidence in such court or proceeding, the Commissioner may designate any deputy, assistant, or other full-time employee of the department who is competent for the purpose, to respond to such subpoena with the record or copy thereof so required and in lieu of the individual to whom the subpoena is directed.

Section 33. PUBLICATIONS. (1) The Commissioner shall have printed or otherwise published for public distribution:

- (a) The insurance laws of this state;
- (b) The rules and regulations of the Commissioner;
- (c) A directory, annually, of all insurers and of all resident insurance agents and brokers authorized or licensed by this state;
- (d) A booklet, annually, containing each and every question and the correct answer thereto, from which shall be taken the

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questions to be used in any written examination of applicants for license under chapters 7 (agents, brokers and solicitors (nonlife)) and 8 (life and disability insurance agents); and

(e) Such other material as he deems relevant and suitable for the more effective administration of the laws relating to insurance.

(2) The Commissioner shall fix at a price at not less than cost of printing and distribution, to be paid by persons requesting copies of the insurance laws, booklets containing questions and answers for examination for licenses, and such other publications as he deems proper to sell on behalf of the State rather than distribute free of charge; except that the Commissioner may furnish, without charge, copies of any such publication to the legislature, to officials and departments of government or political subdivisions of this State or of other states, of the federal government, or of foreign countries. The Commissioner shall promptly deposit all moneys so received in the State Treasury to the credit of the State General Fund.

Section 34. COMMISSIONER'S ANNUAL REPORT. As early as consistent with full and accurate preparation the Commissioner shall annually make a report to the Governor of his official transactions during the preceding calendar year. He shall include in the report:

(1) A statement of the receipts and expenditures of the department for the preceding year;

(2) An exhibit of the financial condition and business transactions during the preceding year of insurers authorized to transact business in this state, as disclosed by the financial statements of the insurers filed with the Commissioner;

(3) Names of insurers whose business was closed during the year, the cause thereof, and amount of assets and liabilities as ascertainable;

(4) Names of insurers against whom delinquency or similar proceedings were instituted and a concise statement of the circumstances and results of each such proceeding;

(5) His recommendations as to amendments or supplementation of laws affecting insurance;

(6) His recommendations concerning the condition, operation and functioning of the department; and

(7) Such other pertinent information and matters as he deems to be in the public interest.

Section 35. EXAMINATION OF INSURERS. (1) For the purpose of determining its financial condition, ability to fulfill its obligations and compliance with the law, the Commissioner shall examine the affairs, transactions, accounts, records and assets of each authorized insurer as often as he deems advisable, including

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Section 40. EXAMINATION EXPENSE. (1) Each person being examined shall pay to the Commissioner the travel expense to and from such examination, a living expense allowance at such reasonable rates customary for such examination in which State the examination takes place and established or adopted by the Commissioner, and the compensation of the examiners making the examination upon presentation by the Commissioner of a detailed account of such allowances and expenses. Such an account may be so presented periodically during the course of the examination or at the termination of the examination, as the Commissioner deems proper.

(2) The Commissioner shall deposit all funds received under subsection (1) above, in the State Treasury to the credit of a fund to be known as the special examination revolving fund. The expenses incurred by the Commissioner and his examiners in the making of examinations under this code, together with the compensation of such examiners, shall be paid from such revolving fund and the amount necessary to make such payments is hereby appropriated from such fund.

Section 41. WITNESSES AND EVIDENCE. (1) As to the subject of any examination, investigation or hearing being conducted by him, the Commissioner may subpoena witnesses and administer oaths or affirmations and examine any individual under oath, or take depositions, and by subpoena duces tecum may require and compel the production of records, books, files, documents and other evidence.

(2) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court. Witness fees, mileage and the actual expense necessarily incurred in securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the person being examined if in the proceedings in which such witness is called such person is found to have been in violation of the law, or by the person, if other than the Commissioner, at whose request the hearing is held.

(3) Subpoenas of witnesses shall be served in the same manner and at the same cost as if issued by a circuit court. If any individual fails to obey a subpoena issued and served hereunder with respect to any matter concerning which he may be lawfully interrogated or required to produce for examination, on application of the Commissioner, the circuit court of the county in which is pending the proceeding at which such individual was so required to appear, or the circuit court of the county in which such individual resides, may issue an order requiring such individual to comply with the subpoena and to testify or produce the evidence subpoenaed; and any failure to obey such order of the court may

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Section 37. EXAMINERS. (1) The Commissioner may conduct any such examination in person, or by examiners regularly employed and commissioned by him in writing for the purpose. No person shall be eligible for designation as an examiner to examine an insurer unless by reason of experience as an accountant, auditor or examiner of financial institutions, or other special experience, education or training he is capable of adequately discharging the responsibilities of such an examiner.

(2) At any time, when examiners who are regular officers or employees of the department are not available for the purpose, the Commissioner may specially appoint and employ a competent examiner or examiners for the purpose of making a particular examination. The special examiner shall be compensated and reimbursed for expenses in the same manner as provided for regular examiners under section 40, but shall not have any status in the classified service of the state.

Section 38. CONDUCT OF EXAMINATION; ACCESS TO RECORDS; CORRECTION OF ACCOUNTS, APPRAISALS. (1) The examination may be conducted by the Commissioner or his accredited examiners at the offices wherever located of the person being examined and at such other places as may be required for determination of matters under examination.

(2) Every person being examined, its officers, attorneys, employees, agents, and representatives shall make freely available to the Commissioner or his examiners the accounts, records, documents, files, information, assets, and matters in his possession or control relating to the subject of the examination.

(3) If the Commissioner or Examiner find any account or record of an insurer being examined to be inadequate, or inadequately kept or posted for proper examination of the condition and affairs of the examinee, he shall give written notice to such examinee specifying:

- a) The deficiencies to be corrected, and
- b) A reasonable period within which to correct the stated deficiencies.

If the examinee fails to maintain, complete or correct such accounts or records within the period specified, the Commissioner may employ experts to reconstruct, rewrite, post or balance such accounts or records in accordance with recognized accounting principles and procedures.

(4) If the Commissioner deems it necessary to value any asset involved in such an examination, he may make written request of the person being examined to appoint one or more competent appraisers approved by the Commissioner, for the purpose of appraising such property. If no such appointment is made within ten (10) days after such request was delivered to such person, the

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Commissioner may appoint the appraiser or appraisers. Any such appraisal shall be promptly made, and a copy of the report thereof shall be furnished to the Commissioner. The reasonable expense of the appraisal shall be borne by the person being examined.

(5) Neither the Commissioner nor any examiner shall remove any record, account, document, file or other property of the person being examined from the offices of such person except with the written consent of such person given in advance of such removal, or pursuant to an order of court duly obtained.

(6) Any individual who obstructs the Commissioner or his examiner in the examination of an insurer shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 15.

Section 39. EXAMINATION REPORTS. (1) The Commissioner or his examiner shall make a full and true written report of each examination. The report shall contain only information obtained from examination of the records, accounts, files and documents of or relative to the person examined or from testimony of individuals under oath, together with recommendations of the examiner based thereon. The Commissioner shall furnish a copy of the proposed report to the person examined not less than twenty (20) days prior to filing the report in his office. If

such person so requests in writing within such twenty-day period, the Commissioner shall grant a hearing with respect to the report, and shall not so file the report until after the hearing and after such modifications have been made therein as the Commissioner deems proper.

(2) The report when so filed shall be admissible in evidence in any action or proceeding brought by the Commissioner against the person examined, or against its officers, employees or agents. The Commissioner or his examiners may at any time testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed in the department.

(3) The Commissioner may withhold from public inspection any examination or investigation report for so long as he deems necessary to protect the person examined from unwarranted injury or to be in the public interest.

(4) After the examination report has been filed, as hereinabove provided, the Commissioner may publish the results of any such examination in one or more newspapers published in this state whenever he deems it to be in the public interest.

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the attorney in fact of a reciprocal insurer in so far as insurer transactions are involved. Except as otherwise expressly provided, he shall so examine each domestic insurer not less frequently than every three years. Examination of an alien insurer shall be limited to its insurance transactions, assets, trust deposits and affairs in the United States except as otherwise required by the Commissioner.

(2) The Commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

(3) In lieu of making his own examination, the Commissioner may, in his discretion, accept a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of another state.

(4) As far as practical the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officials of other states in which the insurer transacts business.

Section 36. EXAMINATION OF AFFAIRS OF AGENTS, BROKERS, ADJUSTERS AND OTHERS. (1) If he has reason to believe that any such person has violated or is violating any provision of this code, or upon complaint by any resident of this state indicating that any such violation may exist, the Commissioner may examine the accounts, records, documents and transactions pertaining to or affecting the insurance affairs of any:

(a) General agent, agent, broker, surplus line broker, solicitor or adjuster;

(b) Person having a contract or power of attorney under which he enjoys in fact the exclusive or dominant right to manage or control an insurer;

(c) Person engaged in or proposing to be engaged in or assisting in the promotion or formation of a domestic insurer, or insurance holding corporation or corporation to finance a domestic insurer or the production of its business.

(2) The Commissioner may examine the insurance affairs and transactions of the attorney-in-fact of a reciprocal insurer in the same manner and on the same basis as examination of such an insurer.

(3) When he deems it necessary for determination of the value of such securities or compliance with any provision of this code, the Commissioner may, in his discretion, examine the transactions and affairs of any corporation of which a domestic insurer owns shares of stock or other securities under which it has or effectively participates in the control of such corporation.

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be punished by the court as a contempt thereof.

(4) Any person wilfully testifying falsely under oath as to any matter material to any such examination, investigation or hearing, shall upon conviction thereof be guilty of perjury and punished accordingly.

Section 42. TESTIMONY COMPELLED; IMMUNITY FROM PROSECUTION. (1) If any individual asks to be excused from attending or testifying or from producing any books, papers, records, contracts, correspondence or other documents in connection with any examination, hearing or investigation being conducted by the Commissioner or his examiner, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall, by the Attorney General, be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding; except, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him in such testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation, or proceeding concerning such perjury; nor shall such individual be exempt from the refusal, suspension or revocation of any license, permission or authority conferred, or to be conferred, pursuant to this code.

(2) Any such individual may execute, acknowledge and file in the department a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement, and thereupon the testimony of such individual or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privileges on account of any testimony he may so give or evidence so produced.

Section 43. HEARINGS. (1) The Commissioner may hold hearings for any purpose within the scope of this code deemed by him to be necessary.

(2) The Commissioner shall hold a hearing if required by any provision, or upon written demand therefor by a person aggrieved by any act, threatened act or failure of the Commissioner to act,

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or by any report, rule, regulation or order of the Commissioner (other than an order for the holding of a hearing, or an order on hearing or pursuant thereto). Any such demand shall specify the grounds to be relied upon as a basis for the relief to be demanded at the hearing, and unless postponed by mutual consent, the hearing shall be held within thirty (30) days after receipt by the Commissioner of demand therefor.

(3) Pending such hearing and decision thereon the Commissioner may suspend or postpone the effective date of his previous action.

(4) This section does not apply as to hearings provided for in chapter 13 of this code (rates and rating organizations).

Section 44. NOTICE OF HEARING. (1) Except where a longer period of notice is provided by other provisions of this code relative to particular matters, not less than ten (10) days in advance the Commissioner shall give notice of the time and place of the hearing, stating the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the Commissioner shall give such notice to all persons whose pecuniary interests are to be directly and immediately affected by such hearing.

(2) If any such hearing is to be held for consideration of rules and regulations of the Commissioner, or for the consideration of other matters, which under subsection (1) above would otherwise require separate notices to more than fifty (50) persons, in lieu of the notice required under such subsection the Commissioner may give notice of the hearing by publication thereof, in two (2) or more newspapers of general circulation in this state, at least once each week during the four (4) weeks immediately preceding the week in which the hearing is to be held. The published notice shall state the time and place of the hearing and shall specify the matters to be considered thereat.

(3) All such notices, other than published notices, shall be given as provided in section 29.

(4) This section does not apply as to hearings provided for in chapter 13 of this code (rates and rating organizations).

Section 45. CONDUCT OF HEARINGS. (1) A hearing may be held in the department at Montgomery, Alabama or at any other place in this state more convenient to parties and witnesses, as the Commissioner determines. The Commissioner or his deputy or examiner shall preside at the hearing, and shall expedite the hearing and all procedures involved therein.

(2) Hearings may be closed to the public at the Commissioner's discretion; except that a hearing shall be open to the public if so requested in writing by any party to the hearing.

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(3) The Commissioner shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary and other evidence and to examine and cross-examine witnesses, to present evidence in support of his interest and to have subpoenas issued by the Commissioner to compel attendance of witnesses and production of evidence in his behalf. The testimony may be taken orally or by deposition, and any party shall have such right of introducing evidence by deposition as may obtain in the circuit courts either at law or in equity.

(4) Upon good cause shown the Commissioner shall permit to become a party to the hearing by intervention, if timely, only such persons who were not original parties thereto and whose pecuniary interests are to be directly and immediately affected by the Commissioner's order made upon the hearing.

(5) Formal rules of pleading or evidence need not be observed at any hearing.

(6) Upon written request seasonably made by a party to the hearing and at such person's expense, the Commissioner shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of such stenographic record shall be furnished to the Commissioner without cost to the Commissioner or the State, and shall be a part of the Commissioner's record of the hearing. If so transcribed, a copy of such stenographic record shall be furnished to any other party to such hearing at the request and expense of such other party. If no stenographic record is made or transcribed, the Commissioner shall prepare an adequate record of the evidence and of the proceedings.

(7) Upon written request setting forth the reasons therefor of a party to a hearing filed with the Commissioner within thirty (30) days after any order made pursuant to a hearing has been mailed or delivered to the persons entitled to receive the same, the Commissioner may, in his discretion, grant a rehearing or reargument of any matter involved in such hearing. Notice of such rehearing or reargument shall be given as provided in section 44.

(8) This section does not apply as to hearings provided for in chapter 13 of this code (rates and rating organizations).

Section 46. ORDER ON HEARING. (1) In the conduct of hearings under this code and making his order thereon, the Commissioner shall act in a quasi-judicial capacity.

(2) Within thirty (30) days after termination of the hearing or of any rehearing thereof or reargument thereon, or within such other period as may be specified in this code as to particular proceedings, the Commissioner shall make his order on hearing,

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covering matters involved in such hearing and in any such rehearing or reargument, and shall give a copy of such order to the same persons given notice of the hearing and to all parties to the hearing.

(3) The order shall contain a concise statement of the facts as found by the Commissioner, and of his conclusions therefrom, and the matters required by section 29 (orders, notices).

(4) The order may affirm, modify or rescind action theretofore taken or may constitute the taking of new action within the scope of the notice of hearing.

(5) This section does not apply as to hearings provided for in chapter 13 of this code (rates and rating organizations).

Section 47. APPEALS FROM THE COMMISSIONER. (1) An appeal from the Commissioner shall be taken only from an order on hearing, or as to a matter on which the Commissioner has refused or failed to hold a hearing after demand therefor under section 43, or as to a matter as to which the Commissioner has refused or failed to make his order on hearing as required by section 46. Any person who was a party to such hearing or whose pecuniary interests are directly and immediately affected by any such refusal or failure to grant or hold a hearing, and who is aggrieved by such order, refusal or failure, may appeal from such order or as to any such matter within thirty (30) days after:

(a) The order on hearing has been mailed or delivered to the persons entitled to receive the same; or

(b) The Commissioner's order denying rehearing or reargument has been so mailed or delivered; or

(c) The Commissioner has refused or failed to make his order on hearing as required under section 46; or

(d) The Commissioner has refused or failed to grant or hold a hearing as required under section 43.

(2) The appeal shall be granted as a matter of right, and shall be taken to the Circuit Court of Montgomery County, Alabama, sitting in equity, or in the case of denial, suspension or revocation of a license as agent, broker, solicitor, adjuster and other licensed insurance representatives, the appeal may at the appellant's option be taken to the circuit court, sitting in equity, of the county in Alabama of the appellant's residence or principal place of business. The appeal shall be taken by filing notice of appeal, or on writ of certiorari by filing petition therefor, with the Register of the Court together with a bond with good and sufficient sureties to be approved by such Register conditioned to pay all costs which may be assessed against the appellant or petitioner in such proceedings, and by service upon or delivery to the Commissioner of a copy of such notice or petition.

(3) Upon receiving the notice of appeal or petition for review,

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the Commissioner shall prepare or cause to be prepared, an official record certified by him which shall contain a copy of all proceedings, findings and orders of the Commissioner and any transcript of testimony and exhibits or record thereof made as provided in section 45(6). Within thirty (30) days after the notice of appeal or petition was filed, the Commissioner shall file such official record with the Court in which the appeal is pending.

(4) Upon filing of the notice of appeal or petition for review the court shall have full jurisdiction of the proceeding and shall determine, and may so determine *ex parte*, whether such filing shall stay the enforcement of the Commissioner's decision or order appealed from.

(5) In hearing the appeal by the circuit court and by the Court of Civil Appeals of Alabama on appeal to it as provided in subsection (7) below, the Commissioner's decision or order shall be taken as *prima facie* just and reasonable. No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this code and affecting the decision or order appealed from, but the court shall otherwise hear the case upon the certified record. The court shall reverse, vacate or modify the Commissioner's decision or order in whole or in part if it finds that:

(a) The Commissioner erred to the prejudice of appellant's substantial rights in his application of the law; or

(b) The decision or order was procured by fraud or was based upon a finding of facts contrary to the weight of the evidence; or

(c) The Commissioner's action was arbitrary or capricious.

(6) Instead of reversing, vacating or setting aside the Commissioner's decision or order or part thereof, the court may remand the case to the Commissioner for further proceedings in accordance with the court's directions; or, in advance of judgment and upon a sufficient showing, the court may remand the case to the Commissioner for the purpose of taking additional testimony or other proceedings.

(7) From the judgment of the circuit court, sitting in equity, either the Commissioner or the interested party taking the appeal may appeal directly to the Court of Civil Appeals of Alabama by taking such appeal within thirty (30) days after the date of the making and entering of its judgment or decree by the circuit court. The interested party so appealing to the Court of Civil Appeals of Alabama shall give security for the costs of such appeal to be approved by the Register of the circuit court. No such security shall be required of the Commissioner.

CHAPTER 3

AUTHORIZATION OF INSURERS AND
GENERAL REQUIREMENTS

Section 48. CERTIFICATE OF AUTHORITY REQUIRED.

(1) No person shall act as an insurer and no insurer shall transact insurance in this state unless so authorized by a subsisting certificate of authority issued to it by the Commissioner, except as to such transactions as are expressly otherwise provided for in this code.

(2) No insurer shall from offices or by personnel or facilities located in this state solicit insurance applications or otherwise transact insurance in another state or country unless it holds a subsisting certificate of authority issued to it by the Commissioner authorizing it to transact the same kind or kinds of insurance in this state.

Section 49. EXCEPTIONS, CERTIFICATE OF AUTHORITY REQUIREMENT. A certificate of authority shall not be required of an insurer with respect to the following:

(1) Transactions relative to its policies lawfully written in this state, or liquidation of assets and liabilities of the insurer (other than collection of new premiums), all as resulting from its former authorized operations in this state.

(2) Transactions thereunder subsequent to issuance of a policy covering only subjects of insurance not resident, located or expressly to be performed in this state at time of issuance, and lawfully solicited, written or delivered outside this state.

(3) Transactions pursuant to surplus lines coverages lawfully written under chapter 10 of this code.

(4) Reinsurance.

Section 50. AUTHORIZATION FOR INVESTMENT PURPOSES ONLY. A foreign insurer may transact business in this state without certificate of authority, for the purpose and to the extent only of investing its funds in real estate located in this state or in securities secured thereby, by complying with the requirements of amendment CLIV of the Constitution of Alabama. Such an insurer shall not be subject to any other provisions of this code.

Section 51. GENERAL ELIGIBILITY OF INSURERS FOR CERTIFICATE OF AUTHORITY. To qualify for and hold authority to transact insurance in this state, an insurer must be otherwise in compliance with this code and with its charter powers, and must be an incorporated stock insurer, or an incorporated mutual insurer or a reciprocal insurer, all of the same

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general type as may be formed as a domestic insurer under this code; except that:

(1) No foreign insurer shall be authorized to transact insurance in this state which does not maintain reserves as required by chapter 33 of this code (liabilities) applicable to the kind or kinds of insurance transacted by such insurer, wherever transacted in the United States; or which transacts insurance in the United States on the assessment premium plan, stipulated premium plan, co-operative plan or any similar plan.

(2) Any foreign insurer which has transacted insurance as an authorized insurer in its state or country of domicile for less than five (5) years, shall not be authorized to transact insurance in this state unless it is otherwise qualified for such authority under this code and is:

(a) The wholly owned subsidiary of an insurer authorized to transact insurance in this state, or

(b) The continuing corporation resulting from a merger or consolidation of insurers at least one of which insurers has been an authorized insurer in its state or country of domicile for at least five (5) years, or is

(c) In compliance with the requirements as to capital and surplus provided therefor under sections 54 and 55.

(3) The Commissioner shall not grant or continue authority to transact insurance in this state as to any insurer the management of which is found by him, after thorough investigation, to be incompetent or untrustworthy, or so lacking in insurance company managerial experience as to make the proposed operation hazardous to the insurance-buying public; or which, after thorough examination or investigation, he has good reason to believe is affiliated directly or indirectly through ownership, control, reinsurance transactions or other insurance or business relations, with any person or persons whose business operations are or have been marked, to the injury of insurers, stockholders, policyholders, creditors, or the public, by manipulation of assets, of accounts, or of reinsurance, or by bad faith.

(4) No insurer the voting control of which is held in whole or substantial part by any government or governmental agency shall be authorized to transact insurance in this state. Membership in a mutual insurer or subscribership in a reciprocal insurer shall not be deemed to be either an ownership or control of the insurer for the purposes of this provision.

(5) Lloyd's plan insurers may be authorized to transact insurance in this state as provided in section 61.

Section 52. NAME OF INSURER. (1) No insurer shall be authorized to transact insurance which has or uses a name so similar to that of another insurer already so authorized as likely to

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mislead the public.

(2) No life insurer shall be so authorized which has or uses a name deceptively similar to that of another insurer authorized to transact insurance in this state within the preceding ten years if life insurance policies originally issued by such other insurer are still outstanding in this state.

(3) No insurer shall be so authorized which has or uses a name which tends to deceive or mislead as to the type of organization of the insurer.

(4) In case of conflict of names hereafter between two insurers, or a conflict otherwise prohibited under the foregoing subsections of this section, the Commissioner may permit or require, as a condition to the issuance of an original certificate of authority to an applicant insurer, that such insurer shall use in Alabama such supplementation or modification of its name or such business name as may reasonably be necessary to avoid such conflict. No such name, supplementation or modification shall contain the principal identifying factor contained in the name of any other insurer already authorized to transact insurance in this state.

Section 53. COMBINATIONS OF INSURING POWERS, ONE INSURER. An insurer which otherwise qualifies therefor may be authorized to transact any one kind or combination of kinds of insurance as defined in chapter 5 of this code, except:

(1) A life insurer may grant annuities and shall be authorized to transact in addition only disability insurance, and no insurer shall be authorized to transact life insurance in this state which transacts anywhere any kind of insurance in addition to life and disability insurances and annuities; except, that the Commissioner shall, if the insurer otherwise qualifies therefor, continue to so authorize any life insurer which, immediately prior to the effective date of this code, was lawfully authorized to transact in this state a kind or kinds of insurance in addition to life and disability.

(2) A reciprocal or Lloyd's plan insurer shall not transact life insurance.

(3) A title insurer shall be a stock insurer, and shall transact no other kind of insurance; except that the Commissioner may continue to so authorize any insurer which immediately prior to the effective date of this code was lawfully authorized to transact and was lawfully writing in this state a kind or kinds of insurance in addition to title insurance.

Section 54. CAPITAL FUNDS REQUIRED. (1) To qualify for authority to transact any one kind of insurance (as defined in chapter 5), or combination of kinds of insurance as shown below, an insurer applying for its original certificate of authority in this

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state after the effective date of this code or continuing such original certificate of authority, shall possess and thereafter maintain unimpaired paid-in capital stock (if a stock insurer) or unimpaired surplus (if a foreign mutual or foreign reciprocal insurer) in amount not less than as applicable under the schedule below, and shall possess when first so authorized such additional funds as surplus as are required under section 55:

Kind or kinds of insurance	Minimum capital or surplus required
Life	\$400,000.00
Disability	400,000.00
Life and disability	400,000.00
Property	200,000.00
Marine	200,000.00
Casualty	300,000.00
Surety	250,000.00
Title	100,000.00
Multiple lines —	
Any two or more: Property, marine, casualty, surety; and all kinds of insurance other than title and life insurance	400,000.00

(2) An insurer holding a valid certificate of authority to transact insurance in this state immediately prior to the effective date of this code may continue to be authorized to transact the same kinds of insurance as permitted by such certificate of authority by maintaining thereafter not less than the same amount of paid-in capital stock (if a stock insurer) or not less than the same amount of surplus (if a mutual or reciprocal insurer) as required by the laws of this state for such authority immediately prior to such effective date; but such insurer shall not thereafter be granted authority to transact any other or additional kind of insurance unless it then fully complies with the requirements as to capital and surplus, as applied to all kinds of insurance it then proposes to transact, as provided by this code with respect to insurers applying for original certificates of authority under this code.

(3) Capital and surplus requirements shall be based upon all the kinds of insurance actually transacted or to be transacted by the insurer in any and all areas in which it operates, whether or not only a portion of such kinds are to be transacted in this state.

(4) As to surplus required for qualification to transact one or more kinds of insurance and thereafter to be maintained, domestic mutual insurers shall be governed by chapter 25 of this code, and domestic reciprocal insurers shall be governed by chapter 27.

(5) A life insurer may also grant annuities without additional capital or additional surplus.

(6) A casualty insurer may be authorized to transact also

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disability insurance without additional capital or additional surplus.

Section 55. SPECIAL SURPLUS REQUIREMENT. (1) In addition to the minimum paid-in capital stock (stock insurers) or minimum surplus (mutual and reciprocal insurers) required by section 54, special surplus shall be possessed by insurers hereafter applying for original certificates of authority in this state as follows:

(a) All stock insurers and foreign mutual and foreign reciprocal insurers which have actively transacted insurance in their states or countries of domicile as an authorized insurer for less than five (5) years, and which do not meet the requirements of items (a) or (b) of section 51 (2), when first authorized to transact insurance in this state shall have a surplus or additional surplus equal to one hundred and fifty percent (150%) of the paid-up capital stock (if a stock insurer) or surplus (if a foreign mutual or foreign reciprocal insurer) otherwise required under section 54 for the kinds of insurance to be transacted.

(b) An insurer that has actively transacted insurance as an authorized insurer in its state or country of domicile for more than five (5) years, or which meets the requirements of items (a) or (b) of section 51 (2), shall possess when first authorized in this state surplus (if a stock insurer) or additional surplus (if a mutual or reciprocal insurer) equal to one hundred percent (100%) of the paid-in capital stock (if a stock insurer) or surplus (if a foreign mutual or foreign reciprocal insurer) otherwise required under section 54.

(2) If within five (5) years after date of its original certificate of authority to transact insurance in this state such an insurer requests authority to transact an additional kind or kinds of insurance, it shall not be so authorized unless it then possesses surplus (if a stock insurer) or additional surplus (if a mutual or reciprocal insurer) in such an amount as would be required under this section as for an original certificate of authority covering all the kinds of insurance the insurer then proposes to transact.

(3) After issuance of its original certificate of authority the insurer may use the special surplus required under this section in the normal course of its business only.

(4) Execution by a mutual or reciprocal surety insurer as sole surety of certain bonds or undertakings required or permitted by law or by certain political subdivisions, public bodies or public officers is subject further to surplus requirement as provided in section 488.

Section 56. DEPOSIT REQUIREMENT, IN GENERAL. (1) The Commissioner shall not issue or permit to exist a certificate of

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authority as to any insurer (other than an alien insurer) unless it has deposited and maintains deposited in trust with the treasurer of this state cash or securities eligible under section 155 of this code and having a value at all times of not less than one hundred thousand dollars (\$100,000.00) or the minimum paid-in capital stock (if a stock insurer) or surplus (if a mutual or reciprocal insurer) required to be maintained by the insurer under this code for authority to transact the kinds of insurance to be transacted, whichever is the smaller amount.

(2) The deposit shall be for the general benefit and protection of the insurer's policyholders or its policyholders and creditors.

(3) In lieu of such deposit or part thereof in this state of a foreign insurer the Commissioner shall, subject to the retaliatory law, section 75, accept the current certificate in proper form of the public official having supervision over insurers in any other state to the effect that a like deposit or part thereof of such insurer, comprised of cash or securities of substantially the same character as required under subsection (1) above, of similar deposits in this state, is being maintained under law in public custody or control in such state in trust for the purpose (among other reasonable purposes of protection of policyholders or policyholders and creditors) of the protection of all the insured's policyholders or of its policyholders and creditors in this state.

(4) All such deposits in this state shall be subject to the applicable provisions of chapter 6 (administration of deposits) of this code.

Section 57. SPECIAL DEPOSIT, SURETY INSURERS. In addition to the deposit required under section 56 or section 59, a surety insurer shall deposit and maintain deposited with the treasurer of this state in trust for the benefit of holders, resident in this state, of the obligations of the insurer cash or securities eligible under section 99 of this code having a value at all times of at least fifty thousand dollars (\$50,000.00); except, that a domestic surety insurer may take credit for the amount of such special deposit against the deposit otherwise required of it under section 56, and except that a foreign insurer showing a deposit pursuant to subsection (3) of Section 56 in the amount of \$200,000 shall not be required to comply with this section.

(2) Such deposits shall be subject to the applicable provisions of chapter 6 (administration of deposits) of this code.

Section 58. SPECIAL DEPOSIT, TITLE INSURERS. (1) For authority to transact such insurance in this state, a foreign title insurer shall have and maintain on deposit in this state for the

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better protection of its guaranty holders and creditors, resident in this state, under its contracts of title insurance, cash and securities eligible under section 99 having a value at all times of not less than fifty thousand dollars (\$50,000.00). The deposit shall be so made and maintained in trust with a bank or trust company located in this state, approved by the Commissioner, having a capital and surplus of not less than five hundred thousand dollars (\$500,000.00).

(2) At its option a domestic title insurer may maintain a deposit in like manner, amount, character and for like purposes as required for foreign insurers under subsection (1) above.

(3) Such deposits shall be subject to the applicable provisions of chapter 6 (administration of deposits) of this code.

Section 59. DEPOSIT OF ALIEN INSURERS. (1) An alien insurer shall not have authority to transact insurance in this state unless it has and maintains within the United States as deposits with trustees, public depositaries or in trust institutions approved by the Commissioner under section 60 assets available for discharge of its United States insurance obligations, which assets shall be in amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States together with the greater of the following sums:

(a) The largest deposit required by section 56 to be made by foreign insurers transacting like kinds of insurance, or

(b) Three hundred thousand dollars (\$300,000.00).

(2) Of the amount deposited by an alien insurer, an amount not less than that required under subdivision (a) or (b) above shall be deposited and maintained on deposit in cash or securities eligible for deposit under section 99, with the Treasurer of this state or with or through the public official having supervision of insurance in another state, and shall be held in trust exclusively for the benefit and protection of the insurer's policyholders or policyholders and creditors in the United States.

(3) The amount so held on deposit under subsection (1) (a) or (b) shall, for the purposes of this code, be deemed to be the paid-in capital (if a stock insurer) or minimum surplus (if a mutual insurer) of the insurer required to be maintained.

(4) If the insurer transacts surety insurance in this state, it shall make and maintain in this state the special deposit required under section 57.

(5) Any such deposit made in this state shall be subject to the applicable provisions of chapter 6 (administration of deposits) of this code, except that if this state is the state of entry into the United States of the alien insurer the deposit shall be subject to the provisions of chapter 30 of this code (trusteed assets of alien insurers).

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Section 60. TRUSTEED ASSETS OF ALIEN INSURER. (1) In order to comply with the requirements of section 59, an alien insurer shall appoint citizens of the United States of America, or public depositaries or trust institutions located in the United States, all as approved by the Commissioner, as trustee or trustees to hold its funds and assets in trust for the benefit of its policyholders or policyholders and creditors in the United States. Any such trustee or trustees shall be named by the board of directors or comparable directive body of the insurer, and a certified copy of the record of the appointment and of the deed of trust shall be filed with the Commissioner.

(2) Funds and assets so held, to the extent that they consist of cash, securities and other assets of the same general character as are eligible for the investment of like funds of a domestic insurer under chapter 35 (investments) of this code, shall constitute the assets of the insurer for the purposes of this code.

(3) Such trustees and assets, and all accounts and records relating thereto shall be subject to examination by the Commissioner in the same manner as the officers, agents, assets and affairs of insurers.

(4) Trusteed assets of an alien insurer using this state as its state of entry into the United States shall be subject to chapter 30 of this code.

Section 61. LLOYD'S INSURERS. Aggregations of individuals as underwriters, whether domestic, foreign or alien, assuming insurance risks upon the plan known as "Lloyd's," whereby each underwriter is liable for the proportionate part assumed by him of the whole amount so insured by a policy issued by such underwriters, may be authorized to transact any kind or kinds of insurance in this state other than life or title insurances, if the insurer is otherwise in compliance with this code, subject to the following conditions:

(1) If a foreign or alien insurer it must have successfully been in business as an authorized insurer in the state or country of domicile for at least ten (10) years.

(2) If a domestic insurer it must file with the Commissioner evidence satisfactory to him that it has been soundly organized and that its insurance operations will at all times be competently conducted by individuals having the necessary experience in insurance underwriting and management to do so; that at all times it will be comprised of not less than thirty (30) individual "underwriters," and that no such underwriter shall retain risk as to any one subject of insurance in amount exceeding two percent (2%) of his total net worth, and that the liability of such underwriter as to any such risk within the extent and amount of coverage provided by the amount of insurance, is unlimited. For

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the purpose of determining compliance with this provision, the Commissioner may at any time require any and all such underwriters to file with him their individual financial statements, duly certified and sworn to under oath, in such form and scope of contents as the Commissioner may reasonably require. The assets and insurance transactions of any or all such underwriters shall be subject to examination by the Commissioner under the same conditions as apply to domestic insurers in general under chapter 2. (Commissioner of Insurance) of this code.

(3) Such an insurer shall otherwise be subject to the same applicable requirements and obligations as apply under this code to a stock insurer transacting like kinds of insurance; and for the purposes of this code such an insurer's deposit made and maintained as required under section 56 or 59 (1) (a) or (b) shall be deemed to be the minimum capital required to be maintained by such an insurer, but subject to the requirements of section 55 as to surplus.

Section 62. APPLICATION FOR CERTIFICATE OF AUTHORITY. To apply for an original certificate of authority an insurer shall file with the Commissioner its application therefor (accompanied by the applicable fees as specified in section 76) showing its name, location of its home office or (if an alien insurer) principal office in the United States, kinds of insurance to be transacted, state or country of domicile, and such additional information as the Commissioner may reasonably require, together with the following documents, as applicable:

(1) A copy of its corporate charter, articles of incorporation or other charter documents with all amendments thereto, certified by the public officer with whom the originals are on file in the state or country of domicile.

(2) If a mutual insurer, a copy of its bylaws, as amended, certified by its secretary or other officer having custody thereof.

(3) If a foreign reciprocal insurer, copies of the power of attorney of its attorney in fact or its subscribers' agreement, certified by its attorney in fact; and if a domestic reciprocal insurer, the declaration provided for by section 597.

(4) A copy of its financial statement as of December 31 next preceding, on the "convention" form as then currently in general use for similar insurers, sworn to by at least two (2) executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state of domicile or of entry into the United States.

(5) Copy of report of last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States.

(6) Appointment of the Commissioner pursuant to section 69

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as its attorney to receive service of legal process.

(7) If a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state, or state of entry into the United States, or country of domicile showing that it is legally organized and is authorized to transact the kinds of insurance proposed to be transacted in this state.

(8) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(9) Evidence satisfactory to the Commissioner of any deposit required under sections 56, 57, 58 or 59.

(10) If other than a life insurer, the affidavit (on a form furnished by the Commissioner) of the insurer's president or other chief officer that it has not violated any of the provisions of section 72 (licensed representative required) during the preceding twelve (12) months, and an agreement that the insurer accepts the terms and the obligations of such section as part of the consideration for authority to transact insurance in this state.

Section 63. ISSUANCE OR REFUSAL OF AUTHORITY; OWNERSHIP OF CERTIFICATE. (1) If upon completion of the application for a certificate of authority the Commissioner finds that the insurer has met the requirements for and is entitled thereto under this code, he shall issue to the insurer a proper certificate of authority; if he does not so find, the Commissioner shall issue his order refusing such certificate. The Commissioner shall act upon an application for a certificate of authority within a reasonable period after its completion.

(2) The certificate, if issued, shall specify the kind or kinds of insurance the insurer is authorized to transact in this state. At the insurer's request, the Commissioner may issue a certificate of authority limited to particular types of insurance or insurance coverages within the scope of a kind of insurance as defined in chapter 5 of this code.

(3) Although issued to the insurer, the certificate of authority is at all times the property of the State of Alabama. Upon any expiration, suspension or termination thereof, the insurer shall promptly deliver the certificate of authority to the Commissioner.

Section 64. CONTINUANCE, EXPIRATION, REINSTATEMENT AND AMENDMENT OF CERTIFICATE OF AUTHORITY. (1) Certificates of authority issued or renewed under this code shall continue in force as long as the insurer is entitled thereto under this code and until suspended, revoked, or terminated at the request of the insurer; subject, however, to continuance of the certificate by the insurer each year by:

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(a) Payment prior to March 1 of the continuation fee provided in section 76, and

(b) Due filing by the insurer of its annual statement for the calendar year preceding as required under section 71.

(2) If not so continued by the insurer, its certificate of authority shall expire as at midnight on the May 31 next following such failure of the insurer so to continue it in force. The Commissioner shall promptly notify the insurer of the occurrence of any such failure resulting in impending expiration of its certificate of authority.

(3) The Commissioner may, in his discretion, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in such expiration, and upon payment by the insurer of the fee for reinstatement, in addition to the current continuation fee, in the amounts provided in section 76. Otherwise, the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this state.

(4) The Commissioner may amend a certificate of authority at any time to accord with changes in the insurer's charter or insuring powers.

Section 65. MANDATORY REVOCATION, SUSPENSION OF CERTIFICATE OF AUTHORITY. (1) The Commissioner shall suspend or revoke an insurer's certificate of authority:

(a) If such action is required by any provision of this code; or

(b) If the insurer no longer meets the requirements for the authority originally granted, on account of deficiency of assets or otherwise; or

(c) If the insurer's authority to transact insurance is suspended or revoked by its state of domicile, or state of entry into the United States if an alien insurer.

(2) Except in cases of insolvency or impairment of required capital or surplus, or suspension or revocation by another state as referred to in subdivision (c) above, the Commissioner shall give the insurer at least ten (10) days notice in advance of any such suspension or revocation under this section, and of the particulars of the reasons therefor. If the insurer requests a hearing thereon within such ten (10) days, such request shall automatically stay the Commissioner's proposed action until his order is made on such hearing.

Section 66. SUSPENSION, REVOCATION OF CERTIFICATE OF AUTHORITY FOR VIOLATIONS AND SPECIAL GROUNDS. (1) The Commissioner may, in his discretion, suspend or revoke an insurer's certificate of authority if, after a hearing

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thereon, he finds that the insurer has wilfully violated any material provision of this code other than those for which suspension or revocation is mandatory, or has failed to pay applicable taxes with respect to a preceding calendar year as required by this code.

(2) The Commissioner shall, after a hearing thereon, suspend or revoke an insurer's certificate of authority if he finds that the insurer:

(a) Is in unsound condition, or is in such condition, or is using such methods and practices in the conduct of its business, as to render its further transaction of insurance in this state hazardous to its policyholders or to the public.

(b) Has refused to be examined or to produce its accounts, records and files for examination, or if any of its officers or agents have refused to perform any legal obligation relative thereto or have refused to give information with respect to its affairs, when required by the Commissioner.

(c) Has failed to pay any final judgment rendered against it in this state within thirty (30) days after the judgment became final or within thirty (30) days after the time for taking an appeal has expired or within thirty (30) days after dismissal of appeal before final termination, whichever date is later.

(d) With such frequency as to indicate its general business practice in this state:

(i) Has, without just cause, refused to pay proper claims arising under coverages provided by its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to liability of an insured to such third person, or

(ii) With like frequency and without just cause compels insureds or claimants in this state to accept less than the amount due them or compel them to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.

Provided however, as a condition precedent to a revocation or suspension of the insurer's certificate of authority under this subsection there has been a prior determination that the insured has engaged in an unfair method of competition or an unfair act or practice in the business of insurance under Section 249 (a) of this Title.

(e) Is affiliated with and under the same general management or interlocking dictorate or ownership as another insurer which transacts direct insurance in this state without having a certificate of authority therefor, except as permitted as to surplus line insurers under chapter 10.

(3) The Commissioner may, in his discretion and without advance notice on a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency

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proceedings, have been commenced in any state by the insurance supervisory official of such state.

Section 67. ORDER, NOTICE OF SUSPENSION OR REVOCATION OF CERTIFICATE OF AUTHORITY; EFFECT; PUBLICATION. (1) Suspension or revocation of an insurer's certificate of authority shall be by the Commissioner's order given to the insurer as provided by section 29 of this code. The Commissioner shall promptly also give notice of such suspension or revocation to the insurer's agents in this state of record in the Commissioner's office. The insurer shall not solicit or write any new coverages in this state during the period of any such suspension or revocation.

(2) In his discretion the Commissioner may cause notice of any such revocation to be published in one or more newspapers of general circulation published in this state.

(3) Upon revocation or suspension of the certificate of authority of a surety insurer the Commissioner shall so notify each officer in this state authorized to approve official bonds, by circular letter stating the grounds of such suspension or revocation.

Section 68. DURATION OF SUSPENSION; INSURER'S OBLIGATIONS DURING SUSPENSION PERIOD; REINSTATEMENT. (1) Suspension of an insurer's certificate of authority shall be for such period as is fixed by the Commissioner in the order of suspension, but not to exceed one year from the date of suspension, unless the Commissioner shortens or rescinds such suspension or the order upon which the suspension is based is modified, rescinded or reversed.

(2) During the period of suspension the insurer shall file its annual statement, pay fees, licenses and taxes as required under this code as if the certificate had continued in full force, and it may service its outstanding policies and adjust losses thereunder.

(3) Upon expiration of the suspension period (if within such period the certificate of authority has not otherwise terminated) the insurer's certificate of authority shall automatically reinstate unless the Commissioner finds that the causes of the suspension have not been removed, or that the insurer is otherwise not in compliance with the requirements of this code, and of which the Commissioner shall give the insurer notice not less than thirty (30) days in advance of the expiration of the suspension period. If not so automatically reinstated the certificate of authority shall be deemed to have expired as of the end of the suspension period or upon failure of the insurer to continue the certificate during the suspension period, whichever event first occurs.

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(4) Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this state to represent the insurer shall likewise reinstate. The Commissioner shall promptly notify the insurer and its agents in this state of record in the department, of such reinstatement.

Section 69. SERVICE OF PROCESS; COMMISSIONER AS PROCESS AGENT. (1) Each insurer applying for a certificate of authority to transact business in this state shall file with the Commissioner an appointment of the Commissioner and his successors in office, on a form as furnished by the Commissioner, as its attorney upon whom may be served all lawful process in any action or proceeding against it in this state, and therein shall agree that any such process served upon such attorney shall be of the same force and validity as if served on the insurer. The appointment shall be irrevocable, shall bind the insurer and any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is outstanding in this state any obligation or liability of the insurer resulting from its transactions therein.

(2) At the time of such appointment of the Commissioner as its process agent, the insurer shall file with the Commissioner designation of the name and address of the person to whom process against it served upon the Commissioner is to be forwarded. The insurer may change such designation by a new filing.

Section 70. SERVING PROCESS; TIME TO PLEAD. (1) Service of process upon the Commissioner as process agent of the insurer (under section 69) shall be made by the proper officer of Montgomery County, by serving copies in triplicate of the process upon the Commissioner or upon his assistant, deputy or other person in charge of his office. Upon receiving such service the Commissioner shall promptly forward a copy thereof by certified mail or registered mail, with return receipt requested, to the person last designated by the insurer to receive the same, as provided under section 69 (2), return one copy with his admission of service, and retain one copy in the files of the department. The Commissioner shall keep a record of all suits filed against insurers, wherein process is served on the Commissioner, noting the name of the insurer, the date of service and the type of suit.

(2) Where process is served upon the Commissioner as an insurer's process agent, the insurer shall not be required to answer or plead except within thirty (30) days after the date upon which the insurer's designee received the copy of the process mailed by the Commissioner, as shown by the return receipt therefor referred to in subsection (1) above.

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(3) Process served upon the Commissioner, and copy thereof forwarded as in this section provided, shall for all purposes constitute valid and binding service thereof upon the insurer.

(4) This section shall not be deemed to prohibit service of process upon an insurer by any other method provided for by law.

Section 71. ANNUAL STATEMENT AND OTHER INFORMATION. (1) Each authorized insurer shall annually on or before March 1, or within such extension of time not exceeding thirty (30) days after March 1 as the Commissioner for good cause shown may grant as to a particular insurer file with the Commissioner a full and true statement of its financial condition, transactions and affairs as of the December 31 preceding. The statement shall be in such general form and context as is in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported upon, and as supplemented by additional information required by the Commissioner. The statement shall be verified by the oath of the insurer's president or vice-president, and secretary or actuary as applicable, or if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation.

(2) The statement of an alien insurer shall be verified by the insurer's United States manager or other officer duly authorized and shall relate only to its transactions and affairs in the United States unless the Commissioner requires otherwise. If the Commissioner requires a statement as to the alien insurer's affairs throughout the world, the insurer shall file such statement with the Commissioner as soon as reasonably possible.

(3) The Commissioner may in his discretion suspend or revoke the certificate of authority of an insurer failing to file its annual statement when due. In addition the insurer shall be subject to a penalty of two hundred and fifty dollars (\$250.00), such penalty to be collected by the Commissioner, if necessary, by a civil suit therefor brought by the Commissioner in the circuit court of Montgomery County, unless waived by the Commissioner upon a showing by the insurer of good cause for its failure to file its report on or before the date due.

(4) At time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by section 76.

(5) In addition to information called for and furnished in connection with its annual statement, an insurer shall furnish promptly to the Commissioner such information with respect to any of its transactions or affairs as the Commissioner may from time to time request in writing.

Section 72. LICENSED REPRESENTATIVE REQUIRED. (1) No insurer shall in this state directly or indirectly accept

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applications for insurance, negotiate for or issue any policy or contract of insurance or assume direct liability as to a subject of insurance resident, located or to be performed in this state unless through insurance agents, solicitors or brokers duly licensed under the provisions of this code.

(2) This section shall not apply to title insurance or insurance of the rolling stock, vessels or aircraft of any common carrier in interstate or foreign commerce, or covering any liability or other risks incident to the ownership, maintenance or operation thereof. This section shall not apply as to life or disability insurance not delivered or issued for delivery in this state, and lawfully solicited outside this state.

Section 73. COUNTERSIGNATURE LAW; PROPERTY, SURETY, CASUALTY POLICIES. (1) To assure the validity and construction of contracts according to the laws of this state and to facilitate the collection of privilege taxes and fees, all property, surety and casualty insurers doing business in this state shall execute all contracts upon property or risks in this state through a resident agent of the insurer, duly licensed under this code, who shall execute or countersign all such contracts. Each such agent regularly compensated on a commission basis shall collect and retain the usual commission paid by the insurer except that not over one-half of such commission may be paid to a licensed nonresident agent or broker.

(2) Each such agent shall keep a true record of all contracts thus executed or countersigned by him, and shall upon request furnish a verified copy thereof to the Commissioner to aid him in the collection of all privilege taxes due in this state.

(3) No such countersignature may be made by any solicitor, managing general agent or service representative, nor by any servant or employee thereof, nor by any servant or employee of the insurer; except that this provision shall not prevent any servant or employee of a direct-writing insurer from being licensed under this code as a resident insurance agent of the insurer to countersign contracts of insurance.

(4) As to policies covering property or risks located in more than one state the insurer may, in its discretion, use a countersignature endorsement thereon showing the policy to which attached and information in respect to such policy, including full premium information sufficient for the countersigning agent's records. Such endorsement shall be signed by the countersigning agent in lieu of countersignature of the original policy.

(5) No countersigning resident agent shall countersign a policy or countersignature endorsement in blank.

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Section 74. EXCEPTIONS TO COUNTERSIGNATURE LAW. Section 73 shall not apply to:

(1) Insurance of the rolling stock, vessels or aircraft of any common carrier in interstate or foreign commerce, or of any vehicle principally garaged and used in another state, or covering any liability or other risks incident to the ownership, maintenance or operation thereof.

(2) Insurance of property received for shipment or delivery, or in transit, while in the possession and custody of railroads or other common carriers.

(3) Wet marine and transportation insurance.

(4) Reinsurance contracts between insurers.

(5) Bid bonds issued in connection with any public or private contracts.

Section 75. RETALIATORY PROVISION. (1) The purpose of this section is to aid in the protection of insurers formed under the laws of Alabama and transacting insurance in other states or countries against discriminatory or onerous requirements under the laws of such states or countries or the administration thereof.

(2) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon Alabama insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the Commissioner upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in Alabama. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on Alabama insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this section.

(3) This section shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance, other than

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property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the Commissioner in determining the propriety and extent of retaliatory action under this section.

(4) For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada or a province thereof, shall be that state designated by the insurer in writing filed with the Commissioner at time of admission to this state or within six (6) months after the effective date of this code, whichever date is the later, and may be any one of the following states:

(a) That in which the insurer was first authorized to transact insurance;

(b) That in which is located the insurer's principal place of business in the United States;

(c) That in which is held the larger deposit of trustee assets of the insurer for the protection of its policyholders or policyholders and creditors in the United States.

If the insurer makes no such designation its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

(5) In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which is located its head office.

CHAPTER 4

FEES AND TAXES

Section 76. FILING, LICENSE AND MISCELLANEOUS FEES. (1) The Commissioner shall collect in advance fees, licenses and miscellaneous charges as follows:

- (a) Certificate of authority:
 - (i) Initial application for original certificate of authority, including the filing with the Commissioner of all documents incidental thereto \$ 25.00
 - (ii) Issuance of original certificate of authority 20.00
 - (iii) Annual continuation or renewal fee 200.00
 - (iv) Reinstatement fee 50.00
- (b) Charter documents:
 - Filing with the Commissioner amendment to articles of incorporation or of association, or of other charter documents, or to bylaws 5.00
 - (c) Solicitation permit, filing application and issuance 25.00
 - (d) Annual statement of insurer (except when filed as part of application for original certificate of authority), filing 10.00
- (e) Agent's license (resident or nonresident agents):
 - (i) Property, casualty, surety agents
 - Filing application for license 10.00
 - Appointment of agent by insurer, property and casualty, each insurer 5.00
 - Annual continuation of appointment, property and casualty, each insurer 5.00
 - (ii) Life and disability insurance agents (resident agents)
 - Original license, each insurer 5.00
 - Annual continuation of license, each insurer 5.00
 - Life and disability nonresident agents
 - Original license, each insurer 26.00
 - Annual continuation of license, each insurer 26.00
 - (iii) Each vending machine licensed under section 171, each year 5.00
- (f) Broker's license (resident or nonresident brokers)
 - Filing application for license 10.00
 - Issuance of license 26.00
 - Annual continuation of license 26.00
- (g) Solicitor's license
 - Filing application for license 10.00
 - Issuance of license 5.00
 - Annual continuation of license 5.00
- (h) General agent's license

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Filing application for license	10.00
Issuance of license, property and casualty, each insurer	5.00
Annual continuation of license, each insurer	5.00
(i) Service Representative's license	
Filing application for license	10.00
Issuance of license, property and casualty, each insurer	5.00
Annual continuation of license, property and casualty, each insurer	5.00
(j) Temporary license:	
As resident agent, each insurer, property, casualty, and life	5.00
As resident broker	26.00
As solicitor	5.00
(k) Examination for agent, broker or solicitor license, resident and nonresident:	
Filing application for examination or reexamination, each classification of examination	5.00
(l) Surplus line broker license, each license year	26.00
(m) Adjuster's license	26.00
Annual continuation of licenses	26.00
(n) Miscellaneous services:	
(i) For copies of documents, records on file in Insurance Department, per page50
(ii) For each certificate of the Commissioner under his seal (other than agent licenses)	1.00
(o) The Commissioner of the State Department of Insurance is hereby authorized and directed to collect a fee of Five dollars when, in acting as agent or attorney for any insurance company, fraternal benefit society, mutual aid association or credit union, he accepts the service of legal process as provided by the laws of this state. He shall refuse to receive and file or serve any process unless such process is accompanied by the aforementioned fee, which shall be taxed as costs in the suit.	
(2) The Commissioner shall promptly pay all fees and licenses collected under this section into the state treasury to the credit of the general fund.	

Section 77. DEFINITIONS FOR PREMIUM TAX PURPOSES.

As used in this and the succeeding sections of this chapter, unless the context or subject matter requires otherwise, the following words or terms shall have the meaning therein ascribed to them respectively:

(1) The term "insurer," as used in this chapter, shall include every insurer as heretofore defined in Section 3 and shall include nonprofit corporations organized pursuant to the provisions of

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Chapter 10, Article 3 of Title 28, Code of Alabama of 1940 or any other insurance company or association or society charging a premium for contracts entered into by such companies, associations, or societies. Provided, however, the exemptions granted in Chapter 32 of this Code are applicable hereto.

(2) The term "foreign insurer," as used in this chapter, shall mean and include any insurance company organized under the laws of any country or of any state of the United States other than the State of Alabama and shall also include insurance companies organized under the laws of Alabama which maintain their principal office or chief place of business outside the State of Alabama.

(3) The term "domestic insurer," as used in this chapter, shall mean and include any insurance company organized under the laws of the State of Alabama which maintains its principal office and chief place of business in the State of Alabama.

(4) The term "premiums," as used in this chapter, shall include all amounts received in cash or otherwise on risks in this state as consideration for insurance contracts, less: (a) insurance premiums returned, (b) reinsurance premiums from insurance companies authorized to do business in Alabama and subject to the premium tax provided for in this chapter, and (c) dividends paid, applied, or left with the company to accumulate at interest. With respect to title insurers, the term "premium" shall not include charges for abstracting, record searching, certificates as to the record title, escrow and closing services and other related services which may be offered or furnished or the costs and expenses of examinations of title.

(5) The term "annuity considerations," as used in this chapter, shall mean all sums received as consideration for annuity contracts.

Section 78. ANNUAL TAX STATEMENT. Each authorized insurer shall annually, on or before March 1, file with the Commissioner a statement, in form as furnished or approved by him, setting forth the total amount of premiums and annuity considerations received by it for business done in this state during the preceding calendar year ending December 31 except as to wet marine and transportation insurance as defined in Section 93. The statement shall be verified by the affidavit of an officer of the insurer having knowledge of the facts.

Section 79. TAX ON FOREIGN INSURERS. (a) Every foreign insurer, except foreign life insurers, shall pay an annual premium tax amounting to four percent (4%) of the premiums received by such foreign insurer for business done in this state (except as to wet marine and transportation insurance as defined in Section 93)

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whether the same are actually received by said insurer in this state or elsewhere, during the year ending the thirty-first day of December preceding. Every foreign life insurer shall pay an annual premium tax amounting to one percent (1%) of annuity considerations and an annual premium tax of three percent (3%) of any other premiums received by such foreign life insurer for business done in this state, whether the same are actually received by said insurer in this state or elsewhere, during the year ending the thirty-first day of December preceding. The rate of tax on premiums shall be subject to reduction as hereinafter provided. Any foreign insurer beginning business in the State of Alabama after January 1 of any calendar year shall, on or before the first day of March of the year succeeding the year of its entry, remit with its statement to the Commissioner, the taxes as required by this chapter on business written in Alabama for the preceding calendar year or fraction thereof in which it began business as a tax for such first year or fractional year; provided, that after any such insurer has been operating in this state for one complete calendar year, it shall compute its business done in this state during said year and upon this basis it shall pay its taxes for that and the succeeding year. Each succeeding year the tax shall be based and paid upon business done in Alabama for the preceding calendar year, it being the intent and meaning of this section that such insurers shall pay their premium taxes on March 1 for such current year, except that the premium taxes for the first and second year shall be paid in the manner herein specifically provided.

The premium taxes herein collected shall be deposited in the state treasury and credited in accordance with the following tabulation:

(1) To the credit of the State General Fund, from which the Legislature may appropriate funds for old age assistance purposes:

One hundred percent (100%) of premium tax on foreign-life insurers;

Sixty-two and one-half percent (62½%) of premium tax on all foreign property insurers;

Seventy-five percent (75%) of premium tax on all other foreign insurers;

(2) To the credit of the Alabama Special Educational Trust Fund:

Thirty-seven and one-half (37½%) of premium tax on foreign property insurers;

Twenty-five percent (25%) of premium tax on all other foreign insurers.

(b) If the annual statement or other report required to be made by such foreign insurer to the Alabama Department of Insurance, whose premiums are taxed under this chapter, for the

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preceding calendar year shows such insurer to have invested at the close of said year in Alabama investments, as hereinafter defined, the requisite percentages of its total admitted assets, the rate of premium tax hereby levied on premiums shall be that shown in the following schedules:

Percentage of Insurer's Admitted Assets Invested in Alabama Investments	Applicable Rate of Premium Tax For Foreign Life Insurers	Applicable Rate of Premium Tax for All Other Foreign Insurers
Less than 1%	3.0%	4.0%
1% and above but less than 2%	2.9%	3.9%
2% and above but less than 3%	2.8%	3.8%
3% and above but less than 4%	2.7%	3.7%
4% and above but less than 5%	2.6%	3.6%
5% and above but less than 6%	2.5%	3.5%
6% and above but less than 7%	2.4%	3.4%
7% and above but less than 8%	2.3%	3.3%
8% and above but less than 9%	2.2%	3.2%
9% and above but less than 10%	2.1%	3.1%
10% and above	2.0%	3.0%

(c) Alabama investments, as used in this section, shall mean any of the following investments: (1) Real estate in this state; (2) bonds or interest-bearing warrants or other evidences of indebtedness of the State of Alabama, or of any county, city, town, school district, state educational institution, municipality or other subdivision of the state, or of any duly authorized agency, board or authority of the State of Alabama or of any political subdivision thereof whether such agency, board or authority now exists or is hereafter created; (3) stocks, bonds or other evidences of indebtedness of any housing or redevelopment authority organized under the Housing Authorities Law or Redevelopment Law of the State of Alabama, as from time to time established and amended; (4) notes or bonds secured by mortgages or other liens on real estate or on leasehold interests in real estate in the State of Alabama; (5) stocks, bonds, debentures, notes or other evidences

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of indebtedness of any corporation organized under the laws of the State of Alabama; (6) notes, debentures, or other evidences of any indebtedness of any business operated as a sole proprietorship, partnership, or other legal entity, having its principal office and place of business in the State of Alabama; (7) notes, bonds, or other evidences of indebtedness secured by mortgage or other lien upon real estate situated in the State of Alabama and insured or guaranteed in whole or in part by the United States or any agency or instrumentality thereof, together with any bonds, debentures or other evidences of indebtedness of the United States or any agency or instrumentality thereof received and retained in whole or partial settlement of any such insurance or guaranty; (8) collateral loans to Alabama residents or to others where at least one-half of the value of the collateral so pledged constitutes an Alabama investment as defined herein; (9) cash deposits in regularly established national or state banks in this state on the basis of the average monthly deposits throughout the calendar year; (10) loans secured by policies on the lives of residents of the State of Alabama; (11) share or share accounts of building and loan associations organized under the laws of the State of Alabama or in the shares or share accounts of federal savings and loan associations having their principal office in the State of Alabama; (12) stocks, bonds, notes, debentures or other evidences of indebtedness of any corporation organized under the laws of any other state of the United States to the extent that the assets of such corporation located in the State of Alabama bear to the total assets of the corporation issuing such stocks, bonds, notes or other evidences of indebtedness; (13) stocks, bonds, notes or other evidences of indebtedness issued by railroad companies, public carriers or transportation companies, to the extent that its trackage or mileage in Alabama bears to the total trackage or mileage of such railroad, public carrier, or other transportation company; (14) that percentage of such insurer's investments in stocks, bonds, notes, or other evidences of indebtedness of any telegraph, telephone, electric power company, or other public utility to the extent that the revenue of any such company from Alabama bears to the total revenue of such telegraph, telephone, electric power company, or other public utility; (15) that percentage of the insurers investments held as of December thirty-first in direct obligations of the United States of America as the total premiums received by the company for direct insurance of subjects located, resident or to be performed in Alabama relate to the total premiums received by the insurer.

(d) Any such tax so determined shall be subject to credit and deduction of the full amount of: (1) the full amount of all ad valorem taxes paid by the insurer for the tax year next preceding the filing of the return required hereby upon any real estate and

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the improvements thereon in the State of Alabama owned and at least fifty percent (50%) occupied by the insurer for the full period of such tax year; (2) All license fees and taxes paid to any county in this state during the year preceding the filing of the return required hereby for the privilege of engaging in the business of insurance within said county; (3) All franchise taxes paid by the insurer under the provisions of Title 51, Section 347 or 348, Code of Alabama of 1940 for the tax year preceding the filing of the return required hereby; and (4) All expense of examination of the company by the Commissioner.

Section 80. TAX ON DOMESTIC INSURERS. Every domestic life insurer shall pay to the Commissioner on or before the first day of March, 1970 and annually thereafter a premium tax equal to one percent (1%) of the premiums and annuity considerations received by such insurer for business done in this state during the preceding calendar year ending the thirty-first day of December whether the same are actually received by said insurer in this state or elsewhere. Every other domestic insurer and every non-profit corporation organized pursuant to the provisions of Chapter 10, Article 3 of Title 28, Code of Alabama of 1940 shall pay to the Commissioner on or before the first day of March, 1970, and annually thereafter, a premium tax equal to two percent (2%) of the premiums received by such insurer for business done in this state (except as to wet marine and transportation insurance as defined in Section 93) during the preceding calendar year ending the thirty-first day of December, whether the same are actually received by said company in this state or elsewhere. Any domestic insurer beginning business after January first of any calendar year, on or before March first of the year following the year beginning business, shall remit with its statement to the Commissioner the taxes as required by this section on business written in Alabama for the preceding calendar year or fraction thereof in which it began business as a tax for such first year or fractional year; provided, that after any domestic insurance company has been operating in this state for one complete calendar year, it shall compute its business done in this state during said year, and upon this basis it shall pay its taxes for that and the succeeding year. Each succeeding year the tax shall be based and paid on business done in Alabama for the preceding calendar year as herein provided, it being the meaning and intent of this section that domestic insurers shall pay their premium taxes on March first for such current year, except that premium taxes for the first and second year shall be paid in the manner herein specifically provided.

Any such tax so determined shall be subject to credit and deduction of the full amount of: (1) All ad valorem taxes paid by

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the insurer for the tax year preceding the filing of the return required hereby upon any building and real estate in the State of Alabama owned and occupied in whole or in part by the insurer for the full period of such tax year as its principal office in the State of Alabama; (2) All ad valorem taxes paid by the insurer for the tax year preceding the filing of the return required hereby upon all other real estate and improvements thereon in this state owned and at least fifty percent (50%) occupied by the insurer for the full period of such tax year; (3) All license fees and taxes paid to any county in this state during the year preceding the filing of the return required hereby for the privilege of engaging in the business of insurance within said county; (4) All expenses of examination of the company by the Commissioner; (5) All license or privilege taxes on lists of securities paid by the company under the provisions of Title 51, Section 372 of the Code of Alabama of 1940 during the tax year preceding the filing of the return required hereby; and (6) All franchise taxes paid by the Company under the provisions of Title 51 Section 347, Code of Alabama of 1940 for the tax year preceding the filing of the return required hereby.

The premium taxes herein collected shall be deposited in the state treasury and credited as follows:

(1) To the credit of the State General Fund:

(a) Fifty percent (50%) of premium tax on domestic life insurers;

(b) No part of premium tax on non-profit corporations organized pursuant to the provisions of Chapter 10, Article 3, of Title 28, Code of Alabama (1940);

(c) Twenty-five percent (25%) of premium tax on all other domestic insurers.

(2) To the credit of the Alabama Special Educational Trust Fund:

(a) Fifty percent (50%) of premium tax on domestic life insurers;

(b) One hundred percent (100%) of premium tax on nonprofit corporations organized pursuant to the provisions of Chapter 10, Article 3 of Title 28, Code of Alabama (1940);

(c) Seventy-five percent (75%) of premium tax on all other domestic insurers.

Every domestic insurer, anything in this chapter to the contrary notwithstanding, shall be exempt from and not required to pay any premium tax for or on account of any premiums or annuity considerations for hospital, medical, surgical or other health care benefits supplementary to Medicare and Medicaid received by it for or on account of business done in this state, whether the same are actually received in this state or elsewhere.

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Section 81. TAX ON WET MARINE AND TRANSPORTATION INSURANCE. (1) On or before March 1 of each year, each insurer shall file with the Commissioner, on forms prescribed and furnished by him, a report of its gross underwriting profit on wet marine and transportation insurance, as defined in Section 93, written in this State during the calendar year next preceding, and shall at the same time pay to the Commissioner a tax of three-quarter ($3/4$) of one per cent (1%) of such gross underwriting profit.

(2) Such gross underwriting profit shall be ascertained by deducting from the net premiums (i.e. gross premiums less all return premiums and premiums for reinsurance) on such wet marine and transportation insurance contracts the net losses paid (i.e. gross losses paid less salvage and recoveries on reinsurance ceded) during such calendar year under such contracts. In the case of insurers issuing participating contracts, such gross underwriting profit shall not include for computation of the tax prescribed by this subsection (2) the amounts refunded or paid as participation dividends by such insurers to the holders of such contracts.

(3) The Commissioner shall deposit all taxes collected under this section in the State Treasury to the credit of the State General Fund.

Section 82. PENALTY FOR FAILURE TO FILE STATEMENT OR PAY TAX. Every insurer failing to comply with the requirements of sections 77 through 81 shall be subject to a penalty of not less than one hundred dollars (\$100.00) nor exceeding one thousand dollars (\$1,000.00), recoverable in an action brought by the Attorney General for the Commissioner. Upon any such violation the Commissioner may, in his discretion, suspend or revoke the insurer's certificate of authority. Penalties recovered under this section shall be paid into the State Treasury to the credit of the general fund.

Section 83. INSURERS ORGANIZED FOR THE PURPOSE OF AIDING NON-PROFIT EDUCATIONAL AND SCIENTIFIC INSTITUTIONS. Annuity considerations and premiums received by a life insurer licensed to transact business in this state and which is organized and operated without profit to any private shareholder or individual and exclusively for the purpose of aiding non-profit education and scientific institutions by issuing insurance or annuity contracts only for the benefit of such institutions and individuals employed in the services thereof at the time such policy or contract is issued, shall not be subject to the payment of a privilege tax based upon premiums or annuity considerations under the provisions of Chapter 4 of this Code or any other law of this state. In lieu of such privilege tax upon

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premiums and annuity considerations, such non-profit company shall pay an annual license fee of \$5,000 to the Commissioner for the privilege of transacting an insurance business in this state. The initial payment of such shall be due on the date that such insurer is licensed to do business in the state of Alabama and upon the first day of March of each year succeeding that of admission so long as such insurer shall be licensed to transact an insurance business in this state.

Section 84. COUNTIES CANNOT TAX. No license or privilege tax shall be charged any insurer by or on behalf of any county.

Section 85. EXEMPTION FROM OTHER TAXES. Nothing in this Act shall be construed to repeal any existing laws or statutes of Alabama which exempt or exclude insurers from the payment of fees, taxes or licenses. Without limiting the generality of the preceding sentence, insurers upon which the statutes of Alabama impose a tax upon their premium income shall continue to be exempt from income taxes imposed by the State of Alabama under the provisions of Title 51, Chapter 17, Alabama Code (1940) or under any other similar law; and the shares of domestic insurers shall continue to be exempt from ad valorem tax as provided by Acts of Alabama 1965, Second Extraordinary Session, being Act No. 27 (Codified as Title 51, Section 25 of the Alabama Code).

Section 86. REFUND OF TAXES OR LICENSES PAID BY MISTAKE. Where any taxpayer in the payment of taxes, or payments of licenses which are paid directly to the Commissioner of Insurance, and where by a mistake of fact or law has paid an amount in excess of the amount due or has made an erroneous payment, the comptroller is authorized to draw his warrant on the treasurer in favor of such taxpayer, and the treasurer is authorized to pay such warrant for the amount of such over-payment or erroneous payment.

Before any refund under this section can be made the taxpayer, his heirs, successors or assigns, shall file in duplicate, petition directed to the Commissioner of Insurance, setting up the fact relied on to procure the refunding of the money erroneously paid. Such application must be made within three years from the date of such payment.

The Commissioner of Insurance shall examine said petition and the records of the Department of Insurance, and if the facts set forth in the petition are such as to entitle the petitioner to the refunding of the money as prayed for and the Commissioner of

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Insurance, upon the evidence adduced is satisfied that the petitioner is entitled to the refund as prayed for, he shall so certify to the comptroller stating the amount to be refunded by the state, the particular fund on which such warrant shall be drawn, including both the special revolving fund and the general fund, and he shall forward to the comptroller copy of the petition with the certificate attached, and if the comptroller shall be satisfied that the petition is in form required by law, he shall draw his warrant on the treasurer as hereinbefore provided for the amount certified to him by the Commissioner of Insurance.

CHAPTER 5

KINDS OF INSURANCE; LIMITS OF RISKS; REINSURANCE

Section 87. DEFINITIONS NOT MUTUALLY EXCLUSIVE.

(1) It is intended that certain insurance coverages may come within the definitions of two or more kinds of insurance as defined in this chapter, and the inclusion of such coverage within one definition shall not exclude it as to any other kind of insurance within the definition of which such coverage is likewise reasonably includable.

(2) The definitions contained in this chapter shall not be applicable to the construction of Title 37, Section 736 and 739 of the Code of Alabama 1940.

Section 88. "LIFE INSURANCE" DEFINED. Life insurance is insurance on human lives. The transaction of life insurance includes also the granting of endowment benefits, additional benefits in event of death or dismemberment by accident or accidental means, additional benefits in event of the insured's disability, burial insurance, and optional modes of settlement of proceeds of life insurance. Life insurance does not include workmen's compensation coverages.

Section 88.1 "ANNUITY" DEFINED. For the purpose of this code an "annuity" is a contract under which obligations are assumed with respect to periodic payments for a specific term or terms or where the making or continuance of all or of some of such payments, or the amount of any such payment, is dependent upon the continuance of human life, except payments made pursuant to optional modes of settlement under the authority of section 88 ("Life insurance" defined). Such a contract which includes extra benefits of the kinds set forth in sections 88 ("life insurance" defined) and 89 ("Disability insurance" defined) shall nevertheless be deemed to be an annuity if such extra benefits constitute a subsidiary or incidental part of the entire contract.

Section 89. "DISABILITY INSURANCE" DEFINED. Disability insurance is insurance of human beings against bodily injury, disablement or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto. Disability insurance does not include workmen's compensation coverages.

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Section 90. "PROPERTY INSURANCE" DEFINED. Property insurance is insurance on real or personal property of every kind and of every interest therein, whether on land, water or in the air, against loss or damage from any and every hazard or cause, and against loss consequential upon such loss or damage, other than noncontractual legal liability for any such loss or damage.

Section 91. "CASUALTY INSURANCE" DEFINED. (1) Casualty insurance includes: (a) **Vehicle insurance.** Insurance against loss of or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incidental to ownership, maintenance or use of any such vehicle, aircraft or animal; together with insurance against accidental death or accidental injury to individuals, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance is issued as an incidental part of insurance on the vehicle, aircraft or draft or riding animal.

(b) **Liability insurance.** Insurance against legal liability for the death, injury, or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

(c) **Workmen's compensation and employer's liability.** Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees.

(d) **Burglary and theft.** Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal, or concealment, or from any attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause.

(e) **Personal property floater.** Insurance upon personal effects against loss or damage from any cause, under a personal property floater.

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(f) **Glass.** Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings.

(g) **Boiler and machinery.** Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured.

(h) **Leakage and fire extinguishing equipment.** Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus.

(i) **Credit.** Insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(j) **Malpractice.** Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service.

(k) **Livestock.** Insurance against loss or damage to livestock, and services of a veterinary for such animals.

(l) **Elevator.** Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire, and to make inspections of and issue certificates of inspection upon elevators.

(m) **Entertainments.** Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals.

(n) **Miscellaneous.** Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this chapter, if such insurance is not disapproved by the Commissioner as being contrary to law or public policy.

(2) Provision of medical, hospital, surgical, and funeral benefits, and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under subdivisions (a) (vehicle), (b) (liability), (d) (burglary), and (j)

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(malpractice) of subsection (1) shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this code applicable to life or disability insurances.

Section 92. "SURETY INSURANCE" DEFINED. Surety insurance includes:

(1) Fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust.

(2) Insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship.

(3) Insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, including any loss while the same are being transported in armored motor vehicles, or by messenger, but not including any other risks of transportation or navigation; also insurance against loss or damage to such an insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein, caused by burglary, robbery, theft, vandalism or malicious mischief, or any attempt thereat.

Section 93. "MARINE," "WET MARINE AND TRANSPORTATION" INSURANCE DEFINED. (1) "Marine Insurance" includes:

(a) Insurance against any and all kinds of loss or damage to:

(i) Vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, monies, bullion, precious stones, securities, choses in action, evidence of debt, valuable papers, bottomry and respondentia interests and all other kinds or property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builder's risks and all personal property floater risks, and

(ii) Person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, mainte-

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nance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles), and

(iii) Precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise, and

(iv) Bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered; piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion; other aids to navigation and transportation, including dry docks and marine railways, against all risks.

(b) "Marine protection and indemnity insurance," meaning insurance against, or against legal liability of the insured for, loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

(2) For the purposes of this code "wet marine and transportation" insurance is that part of marine insurance which includes only:

(a) Insurance upon vessels, crafts, hulls and of interests therein or with relation thereto;

(b) Insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance;

(c) Insurance of freights and disbursements pertaining to a subject of insurance coming within this subsection; and

(d) Insurance of personal property and interests therein, in course of exportation from or importation into any country, and in course of transportation coastwise or on inland waters, including transportation by land, water or air from point of origin to final destination, in respect to, appertaining to or in connection with, any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident thereto.

Section 94. "TITLE INSURANCE" DEFINED. Title insurance is insurance of owners or property or others having an interest therein, or liens or encumbrances thereon, against loss by

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encumbrance, or defective titles, or invalidity, or adverse claim to title.

Section 95. LIMIT OF RISK. (1) No insurer shall retain any risk on any one subject of insurance, whether located or to be performed in this state or elsewhere, in an amount exceeding ten percent (10%) of its surplus to policyholders.

(2) A "subject of insurance" for the purposes of this section, as to insurance against fire and hazards other than windstorm, earthquake and other catastrophic hazards, includes all properties insured by the same insurer which are customarily considered by underwriters to be subject to loss or damage from the same fire or the same occurrence of such other hazard insured against.

(3) Reinsurance ceded as authorized by section 96 of this code shall be deducted in determining risk retained. As to surety risks, deduction shall also be made of the amount assumed by any established incorporated co-surety and the value of any security deposited, pledged, or held subject to the surety's consent and for the surety's protection.

(4) As to alien insurers, this section shall relate only to risks and surplus to policyholders of the insurer's United States branch.

(5) "Surplus to policyholders" for the purposes of this section, in addition to the insurer's capital and surplus shall be deemed to include any voluntary reserves which are not required pursuant to law, and shall be determined from the last sworn statement of the insurer on file with the Commissioner, or by the last report of examination of the insurer, whichever is the more recent at time of assumption of risk.

(6) This section shall not apply to life or disability insurance, title insurance, insurance of wet marine and transportation risks, workmen's compensation insurance, employers' liability coverages, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not readily ascertainable on issuance of the policy.

(7) Limits of risk as to newly formed domestic mutual insurers shall be as provided in section 511.

Section 96. REINSURANCE. (1) An insurer authorized under this code may accept reinsurance only of such risks, and retain risk thereon within such limits, as it is otherwise authorized to insure.

(2) An insurer authorized under this code may reinsure all or any part of any particular risk with any solvent insurer which has been authorized to transact insurance in one or more states for not less than three (3) years and has: (a) unimpaired paid-in capital stock (if a stock insurer) or unimpaired surplus (if a mutual or reciprocal insurer) in amount not less than that required under this

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code of a foreign insurer transacting like kinds of insurance; or (b) a trust fund (if a group of unincorporated alien insurers) maintained in a state of the United States for the benefit of American policyholders in a sum at least equal to \$50,000,000.

(3) No credit shall be allowed, as an asset or as a deduction from liability to any ceding insurer for reinsurance placed with a reinsurer not qualified under subsection (2) above, nor unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

(4) Upon request of the Commissioner an insurer shall promptly inform the Commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

(5) This section shall not apply to wet marine and transportation insurance.

CHAPTER 6

ADMINISTRATION OF DEPOSITS

Section 97. AUTHORIZED DEPOSITS OF INSURERS. The following deposits of insurers when made through the Commissioner shall be accepted and held, and shall be subject to the provisions of this chapter:

(1) Deposits required under this code for authority to transact insurance in this State.

(2) Deposits of domestic insurers when made pursuant to the laws of other states, provinces and countries as requirement for authority to transact insurance in such state, province or country.

(3) Deposits of reserves made by domestic life insurers under laws heretofore in force.

(4) Deposits in such additional amounts as are permitted to be made under section 107.

Section 98. PURPOSE OF DEPOSIT. Such deposits shall be held for purposes as follows:

(1) Deposits made in this State under sections 56 (deposit requirement, in general), 57 (special deposit, surety insurers) and 59 (deposit of alien insurers) of this code shall be held for the purposes stated in the respective sections.

(2) A deposit made in this State by a domestic insurer transacting insurance in another state, province or country, and as required by the laws of such state, province or country, shall be held for the protection of the insurer's policyholders or policyholders and creditors.

(3) Deposits of reserves made by domestic life insurers under laws heretofore in force shall be held for the purpose or purposes specified in such laws or in the policies or contracts by which such deposit was required or declared.

(4) Deposits required pursuant to the retaliatory provision, section 75, shall be held for such purposes as are required by such laws, and as specified by the Commissioner's order by which the deposit is required.

Section 99. SECURITIES ELIGIBLE FOR DEPOSIT. (1) All such deposits required under sections 56, 57 and 59 for authority to transact insurance in this State shall consist of certified checks or certificates of deposit, or any combination of securities the market value of which is readily ascertainable and, if negotiable by delivery or assignment, of the kinds described in the following sections of this code:

(a) Section 762 (United States government obligations);

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(b) Section 764 (state, county, municipal and school obligations);

(c) Section 765 (public improvement obligations);

(d) Section 766 (housing authority obligations);

(e) Section 767 (obligations, stock of certain federal agencies);

(f) Section 768 (Canadian governmental obligations);

(g) Section 769 (international bank);

(h) Section 770 (corporate obligations);

(i) Section 774 (equipment trust obligations); and

(j) Section 775 (railroad leased lines, terminal obligations).

(2) All such deposits required of a domestic insurer pursuant to the laws of another state, province or country shall be comprised of securities, if negotiable by delivery or assignment, of the kind or kinds required or permitted by the laws of such state, province or country, except common stocks, mortgages of any kind and real estate.

(3) Deposits of the reserves of a domestic life insurer under laws heretofore in force shall consist of securities, if negotiable by delivery or assignment, eligible for investment of the insurer's reserves under chapter 35 of this code.

(4) Deposits of foreign insurers made in this State under the retaliatory provision, section 75, shall consist of such securities or assets as are required by the Commissioner pursuant to such provision.

SECTION 100. STATE TREASURER AS DEPOSITARY. (1) Deposits made in this State under sections 56 (deposit requirement, in general), 57 (special deposit, surety insurers) and 59 (deposit of alien insurers), together with deposit of reserves of domestic life insurers under registered policies heretofore issued, shall be made through the Commissioner with the Treasurer of the State of Alabama.

(2) The State Treasurer, in his official capacity, shall take, receipt for and hold deposits made under this code as provided in subsection (1) above, subject to the provisions of this chapter.

(3) The State Treasurer shall hold all such deposits in safekeeping in the vaults located in his offices; or, if space in such vaults is not reasonably adequate and safe for all securities and property otherwise to be contained therein, the Treasurer may keep such securities in safe deposit boxes rented by him for the purpose and under his control in established safe deposit institutions located in the city of Montgomery, Alabama.

(4) The Treasurer shall be the custodian only of such deposits, and shall have no powers or responsibility as to the character or amount thereof. He shall accept, permit substitutions and release securities or assets so deposited only upon written authorization of the Commissioner and the insurer, or upon order of the court,

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and shall have no obligation to determine in any instance whether such authorization or order, if genuine, is otherwise lawful or proper.

(5) For all securities and assets deposited as provided in this section, the faith and credit of the State of Alabama is pledged, that the same will be returned to the parties entitled to receive them, or disposed of as provided in this chapter.

Section 101. RECORD OF DEPOSITS. The Commissioner shall keep a record of the securities and assets comprising each deposit, showing by item the amount and market value, and of all his transactions relative thereto.

Section 102. ASSIGNMENT, CONVEYANCE OF SECURITIES OR ASSETS; APPRAISAL. (1) All securities not negotiable by delivery and deposited by an insurer shall be duly assigned to the Commissioner and his successors in office. All other assets so deposited shall be duly transferred or conveyed to the Commissioner. Upon release of any such security or asset to the insurer, the Commissioner shall reassign, or transfer, or reconvey the same to the insurer.

(2) The Commissioner may, in his discretion, prior to acceptance for deposit of any security or asset, or at any time thereafter while so deposited, have the same appraised or valued by competent appraisers. The reasonable costs of any such appraisal or valuation shall be borne by the insurer.

Section 103. POWER TO SELL DEPOSITED SECURITIES; POWER OF ATTORNEY. In lieu of the assignment, transfer or conveyance of securities and assets to the Commissioner as provided for in section 102 (1), and at all events in connection with any deposit heretofore or hereafter made through the Commissioner, the Commissioner may require or permit the depositing insurer to deliver to him a power of attorney, executed by the lawful owner of such securities or assets, authorizing the Commissioner to transfer, sell or exchange the same for the purposes of the law under which the same are deposited or held on deposit. The power of attorney shall specifically describe each of the securities and assets covered thereby and shall not be a general power of attorney covering all securities and assets on deposit or thereafter deposited.

Section 104. POWER TO SELL DEPOSITED SECURITIES; WHEN POWER OF SALE TO BE EXERCISED. The Commissioner shall exercise the power granted by the power of attorney provided for in section 103, or otherwise sell any security or asset under any assignment, transfer or conveyance pursuant to section

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102, only pursuant to and in accordance with an order of a court of competent jurisdiction in a proper proceeding or action to which the insurer owning such securities or assets is a party. This section shall not apply as to the special deposits of surety insurers which are subject to section 109.

Section 105. POWER TO SELL DEPOSITED SECURITIES; SAFEKEEPING OF POWER OF ATTORNEY; RETURN TO INSURER. The power of attorney provided for in section 103 shall be kept by the Commissioner in a place of safekeeping, and may be physically attached to the securities or assets described therein. Whenever such securities or assets, or any portion thereof, are returned to the insurer which deposited them, the power of attorney shall be returned to the insurer or to the trustee or other representative authorized for that purpose.

Section 106. POWER TO SELL DEPOSITED SECURITIES; NEW POWER OF ATTORNEY ON RETURN OF PART OF SECURITIES. If less than all of the securities or assets covered by any such power of attorney is returned to the insurer or its trustee or agent, the Commissioner may require the insurer to deliver to him, as a condition precedent to the return of such power of attorney, a new power of attorney covering the securities and assets not then being withdrawn. The new power of attorney shall be held and exercised under the same restrictions and upon the same conditions as prescribed in this chapter for the original power of attorney.

Section 107. EXCESS DEPOSITS. An insurer may so deposit assets or securities in an amount exceeding its deposit required or otherwise permitted under this code by not more than twenty percent (20%) of such required or permitted deposit, or one hundred thousand dollars (\$100,000.00), whichever is the larger amount, for the purpose of absorbing fluctuations in the value of securities and assets deposited, and to facilitate the exchange and substitution of such securities and assets. During the solvency of the insurer, any such excess shall be released to the insurer upon its request. During the insolvency of the insurer, such excess deposit shall be released only as provided in section 111 (2) (c).

Section 108. RIGHTS OF INSURER DURING SOLVENCY. So long as the insurer remains solvent and is in compliance with this code it may:

- (1) Demand, receive, sue for and recover the income from the securities or assets deposited;
- (2) Exchange and substitute for the deposited securities or assets, or any part thereof, other eligible securities and assets of equivalent or greater value; and
- (3) At any reasonable time inspect any such deposit.

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Section 109. SALE OF SECURITIES TO PAY OBLIGATIONS — SPECIAL DEPOSIT OF SURETY. (1) If any surety insurer which has made the deposit provided for in section 57 of this code (special deposit, surety insurers) fails or refuses to pay any final judgment or decree rendered against it upon any bond or undertaking from which no appeal and supersedeas has been taken for thirty (30) days after the rendition of such judgment or decree, the clerk or register of the court in which such judgment or decree was rendered shall certify a copy thereof to the Commissioner together with the fact that it remains unpaid, and the Commissioner shall sell as many of the securities or other assets deposited by such insurer as may be necessary to pay such judgment or decree and the interest and costs thereon, and to pay to the clerk or register of the court, from the proceeds of the sale, the amount of the judgment or decree, with interest and costs; and the Commissioner shall sell such securities or other assets at private or public sale, with or without notice, or so many as may be necessary, for the best price he can obtain in the market, shall assign the same to the purchaser and shall apply the proceeds, or so much thereof as may be necessary, to the payment of such judgment or decree, with interest and costs, the surplus, if any, remaining on deposit in lieu of the securities or other assets so sold.

(2) Of such sale the Commissioner must forthwith notify the insurer and require it to supply the deficiency, if any, in the deposit within thirty (30) days as required in section 110; and if the insurer fails to do so, the Commissioner shall revoke its certificate of authority.

Section 110. DEFICIENCY OF DEPOSIT. (1) If for any reason the market value of assets and securities of an insurer held on deposit in this State under this code falls below the amount so required, the insurer shall promptly deposit other or additional assets or securities eligible for deposit sufficient to cure such deficiency. If the insurer has failed to cure the deficiency within thirty (30) days after receipt of notice thereof by registered or certified mail from the Commissioner, the Commissioner shall revoke the insurer's certificate of authority.

(2) If for any reason the market value of assets and securities of a domestic life insurer, representing deposit of the reserves of certain of its outstanding registered policies and registered annuity contracts under laws heretofore in force, falls below the amount so required and as determined from the insurer's most recent annual statement or most recent examination of the insurer by the Commissioner, the insurer shall promptly deposit other or additional assets or securities eligible for deposit sufficient to cure such deficiency. If the insurer has failed to cure the deficiency,

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after the Commissioner has given the insurer notice thereof by registered or certified mail, within such reasonable time, not exceeding ninety (90) days, as may be allowed therefor by the Commissioner and so specified in his notice, the insurer shall be deemed to be insolvent and the Commissioner shall revoke its certificate of authority and institute delinquency proceedings against the insurer under chapter 29 of this code.

Section 111. DURATION AND RELEASE OF DEPOSIT, IN GENERAL. (1) All deposits in this State made under this code shall be held on deposit as long as there is outstanding any liability of the insurer with respect to which the deposit was made.

(2) Any such deposit shall be released and returned:

(a) To the insurer upon extinguishment by reinsurance, in an insurer authorized to transact such insurance in this State, or otherwise, of all liability of the insurer for the security of which the deposit is held; or

(b) To the insurer, during solvency, to the extent such deposit is in excess of the amount required; or

(c) Upon proper order of a court of competent jurisdiction, to the receiver, conservator, rehabilitator, liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

(3) The Treasurer shall release any such deposit or part thereof upon written authorization of the Commissioner and of the insurer or order of court, as provided in section 100 (4).

(4) In the case of deposits of title insurers made under section 58, the deposit or excess portion thereof shall be released by the trustee bank or trust company upon written authorization of the Commissioner, or upon order of a court of competent jurisdiction. If a foreign title insurer which has made such a deposit reincorporates under the laws of the State of Alabama and qualifies under this code as a domestic title insurer, and if all of the liabilities of such foreign insurer in this State are assumed by such new domestic insurer and the foreign insurer does not thereafter transact business in this State, its deposit shall be delivered by such trustee to such new domestic insurer upon its application and the written authorization of the Commissioner.

(5) This section shall not apply as to deposits held with respect to registered life insurance policies or registered annuity contracts insured under laws heretofore in force. Such deposits shall be released only as provided under the laws pursuant to which such policies and contracts were so issued and registered.

Section 112. PROOFS FOR RELEASE OF DEPOSIT. (1) Before authorizing the release of any deposit or excess portion thereof to the insurer, as provided in section 111, the Commis-

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sioner shall require the insurer to file with him a statement under its seal and the oath of its chief executive officer (or of its United States manager in the case of an alien insurer) setting forth the facts upon which it bases its entitlement to such release.

(2) If release of the deposit is claimed by the insurer upon the ground that its liabilities in this State, as to which the deposit was originally made and is held, have been assumed by another insurer authorized to transact insurance in this State, the insurer shall file with the Commissioner a copy of the contract or agreement of such reinsurance.

(3) Upon being satisfied by such statement and such other information and evidence as he may reasonably require, and by such examination, if any, of the affairs of the insurer as he deems advisable to make, that the insurer is entitled to the release of its deposits or excess portions thereof as provided in section 111, the Commissioner shall authorize the Treasurer, or the trustee bank or trust company in the case of deposits of title insurers made under section 58, to release the deposit or excess portion thereof to the insurer or its authorized representative. The Commissioner shall have no liability as to any such release so made by him in good faith.

CHAPTER 7

AGENTS, BROKERS AND SOLICITORS

(Property, Casualty, Surety)

Section 113. **SCOPE OF CHAPTER.** This chapter applies only as to agents, brokers, solicitors and other insurance representatives as defined in this chapter transacting or proposing to transact, as such representatives, any of the following kinds of insurance:

(1) Property insurance, except as to insurance of baggage or personal effects while in possession of a common carrier in connection with travel of the insured, when such insurance is effectuated through ticket or transportation agencies selling tickets for such common carrier.

(2) Casualty insurance, except as to insurance of baggage or personal effects under the same circumstances as stated in subdivision (1) above.

(3) Surety insurance.

(4) Disability insurance, when transacted by a casualty, property or surety insurer.

(5) For the purposes of this chapter "property" insurance includes also "wet marine and transportation" insurance as defined in section 93.

Section 114. **"AGENT" DEFINED.** An "agent" is a natural person appointed by an insurer to solicit and negotiate insurance contracts on its behalf, and if authorized to do so by the insurer, to effectuate, issue and countersign such contracts. An agent may not delegate the countersignature authority by appointing another individual as his attorney-in-fact.

Section 115. **"BROKER" DEFINED.** A broker is a natural person who, on behalf of the insured, for compensation as an independent contractor, for commission, or fee, and not being an agent of the insurer, solicits, negotiates, or procures insurance or the renewal or continuance thereof, or in any manner aids therein, for insureds or prospective insureds, other than himself. Brokers cannot bind the insurer and all business produced must be countersigned by a resident agent of the insurer accepting the risk.

Section 116. **"SOLICITOR" DEFINED.** A solicitor is a natural person appointed and authorized by a licensed agent or broker to solicit applications for insurance as a representative of such agent or broker, and to collect premiums thereon when expressly so authorized by the agent or broker. A solicitor may not bind the insurer, accept risks or countersign policies of insurance. The

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solicitor must be domiciled in the same city or town as the sponsoring agent and must be under the direct supervision of the agent. An individual employed by and devoting full time to clerical work with incidental taking of insurance applications and receiving premiums in the office of the agent or broker shall not be deemed to be a solicitor if his compensation is not related to the volume of such applications, insurances or premiums.

Section 117. "MANAGING GENERAL AGENT" DEFINED; GENERAL REQUIREMENTS. (1) A managing general agent is an individual, firm or corporation appointed as an independent contractor by one or more insurers for the principal purpose of exercising general supervision over the business of the insurer in Alabama, with authority to appoint agents for such insurer and to terminate such appointments. The authority of a managing general agent shall not include countersignature privileges.

(2) A managing general agent shall otherwise qualify and be licensed as such as provided in this chapter, but shall not be required to take and pass an examination, nor be a resident of Alabama.

(3) A managing general agent must be licensed for each insurer represented and for each class of insurance handled by the insurer in this state.

Section 118. "SERVICE REPRESENTATIVE" DEFINED; GENERAL REQUIREMENTS. (1) A service representative is a natural person, other than an officer, manager or managing general agent of the insurer, employed on salary by an insurer or managing general agent to work for, with or through agents in soliciting, negotiating and effectuating insurance in such insurer or in the insurers represented by the managing general agent.

(2) Officers and salaried nonresident traveling representatives of a mutual insurer operating on the premium deposit plan, or of a reciprocal insurer, not using resident agents for the solicitation of business, who inspect risks or solicit insurance in this state and who receive no commissions from the insurer shall be deemed also to be service representatives.

(3) A service representative shall otherwise qualify and be licensed as such under this chapter, but shall not be required to take and pass an examination, nor be a resident of Alabama if he is qualified as a service representative in the state of his domicile.

(4) Service representatives are not authorized to countersign policies of insurance in the State of Alabama. The service representative must be licensed for each insurer represented and for each class of insurance handled by the insurer in this state.

Section 118.1. SAME: DEFINITIONS NOT TO INCLUDE. In addition to persons excluded by the terms thereof, the definition

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of an agent, broker, solicitor or managing general agent or service representative shall not be deemed to include any of the following:

(1) Salaried employees rendering solely clerical and administrative services in the office of the employer.

(2) Salaried administrative and clerical employees of agents and brokers performing any functions in the office and under the supervision of the employer and receiving no commissions.

(3) Salaried employees of insurers, or organizations employed by insurers, engaged in inspection, rating or classifying risks, or in general supervision of agents, and not in the solicitation or the writing of insurance.

(4) Officers of insurers or of an association of insurers engaged in the performance of their usual and customary executive duties, exclusive of field solicitation of insurance other than rendering assistance to or on behalf of a licensed agent but receiving no commission or other compensation directly dependent upon the amount of business transacted.

(5) Persons completing or delivering declarations or certificates of coverage under running inland marine insurance contracts evidencing coverage thereunder, if:

(a) such persons receive no commissions directly or indirectly on such insurance; and

(b) such persons or their employers have an insurable interest in the risk evidenced by the certificate or declaration.

(6) Persons who secure and furnish information for the purpose of group life insurance, group or blanket health insurance or annuity coverages, or for enrolling individuals under such plans or issuing certificates thereunder of otherwise assisting in administering such plans where no commission is paid for such services.

Section 119. LICENSE REQUIRED; FORMS. (1) No person shall in this state be, act as, hold himself out as or claim to be or act as an agent, broker, solicitor, managing general agent, or service representative unless then licensed as such agent, broker, solicitor, managing general agent or service representative under this chapter. Any insurer accepting business directly from a person not licensed by such insurer shall be liable to a fine up to three (3) times the premium received from such unlicensed person.

(2) No agent, broker or solicitor shall solicit or take application for, procure, or place for others any kind of insurance as to which he is not then licensed.

(3) No agent shall place any business (other than coverage of his own risks) with any insurer as to which he does not then hold an appointment as agent under this chapter.

(4) The Commissioner shall prescribe and furnish on request all forms required in connection with application for, issuance,

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continuation, or termination of licenses and appointments.

Section 120. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of the people of this state, the Commissioner shall not issue, continue or permit to exist any agent, broker, solicitor, managing general agent or service representative license except in compliance with this chapter, or as to any individual not qualified therefor as follows:

(1) Must be a natural person twenty-one (21) years or more of age, or be an individual whose disabilities of minority have been removed; except, that a managing general agent license may also be issued to a firm or corporation.

(2) Must be a citizen of the United States of America.

(3) Must be domiciled in and have been a bona fide resident of this state for not less than six (6) months preceding the date of application for the license; except, that this provision does not apply as to managing general agents or service representatives.

(4) Must be of good moral character and not have been convicted of a felony nor of any crime involving moral turpitude.

(5) Must intend to, and commencing immediately after issuance of such a license shall during the existence of the license, actively engage as to the general public in the business permitted under the license.

(6) If to be licensed as broker, must have had experience either as an agent, solicitor, adjuster, managing general agent, broker, or as an employee or special representative of an insurer or insurers, or special education or training of sufficient duration and extent reasonably necessary for competence in fulfilling the responsibilities of a broker.

(7) Must not use, or intend to use, the license principally for the purpose of procuring insurance of his own risks or interests or those of his relatives to the second degree or of his firm, corporation or employer.

(8) Must pass any written examination for the license required under this chapter.

Section 121. FIRMS AND CORPORATIONS; LICENSING, ADVERTISING. A corporation, partnership, firm, association or other artificial entity shall not be licensed as an agent, broker or solicitor, but may advertise its insurance business if such business is in charge of a duly licensed agent or broker.

Section 122. APPLICATION FOR LICENSE, IN GENERAL.

(1) The Commissioner shall not issue any license except upon application therefor as in this chapter provided. Each applicant for a license shall file with the Commissioner his written application therefor signed by him and showing:

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- (a) His name, age and place of residence;
 - (b) The kinds of insurance to be transacted under the license, and the insurer or insurers he proposes so to represent;
 - (c) The person, firm or corporation by whom he expects to be employed or associated with as such licensee, and his status as an officer or representative thereof;
 - (d) Whether he proposes to write or solicit insurance of his own risks and interests or those of his relatives, any firm or corporation in which he is financially interested or connected, directly or indirectly, or of his employer;
 - (e) A short business history of the applicant and the name and nature of any business enterprise with which he may be associated;
 - (f) The extent of his formal education and business experience or apprenticeship;
 - (g) Whether he has ever applied previously for license or been licensed to transact any kind of insurance business in this state or elsewhere, and whether any such license was ever refused, suspended or revoked;
 - (h) Whether any insurer or managing general agent claims that he is in default as to premiums or other moneys collected and not accounted for, and if so the details thereof, and like information as to any member of his family who is then or has theretofore been engaged in the insurance business; and
 - (i) Any additional information reasonably required by the Commissioner.
- (2) At the time of filing his original application for license the applicant shall pay to the Commissioner the application fee and the fees for any examinations required under section 125, as specified in section 76. Such fees shall not be returnable.

Section 123. APPLICATION FOR AGENT LICENSE; STATEMENT OF APPOINTING INSURER. At the time of application for license as agent, the insurer intending to appoint the applicant as its agent shall file with the Commissioner its statement showing:

- (1) The kind or kinds of insurance or classifications thereof as provided in section 126 it proposes to authorize the applicant to solicit or write;
- (2) What investigation it has made of the applicant's qualifications, character and fitness for the duties to be assumed, and the results of such investigation; and
- (3) Such additional information as the Commissioner reasonably requires.

Section 124. APPLICATION FOR SOLICITOR LICENSE; STATEMENT OF APPOINTING AGENT OR BROKER. At the time of application for license as solicitor, the agent or broker

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intending to appoint the applicant as a solicitor shall file with the Commissioner his statement showing:

(1) The kind or kinds of insurance or classes thereof as provided in section 126 (1) the applicant is to handle under the license applied for, and that the agent or broker is himself licensed to write the same such kinds and classes;

(2) What investigation he had made of the applicant's qualifications, character and fitness for the duties to be assumed, and the results of such investigation;

(3) The extent to which insurance solicitation will constitute the activities of the applicant; and

(4) Such additional information as the Commissioner reasonably requires.

Section 125. EXAMINATION FOR LICENSE; WHEN AND WHERE. (1) After completion and filing of the application for license as required in sections 122 through 124, the Commissioner shall give each applicant for license as agent, or broker or solicitor (unless exempted from examination under section 128) a written examination of sufficient scope reasonably to test the applicant's knowledge relative to the kinds of insurance or classes thereof which may be dealt with under the proposed license, and of the duties and responsibilities of, and the laws of this state applicable to, such a licensee.

(2) Within ten (10) days after such completion of the application, the Commissioner shall notify the applicant by letter addressed to him at his address as shown on his application of the time and place of the examination for license. The examination shall be given, within not more than sixty (60) nor less than three (3) days after the giving of the notice, at the office of the Commissioner at Montgomery or at such other place in Alabama as the Commissioner reasonably designates; except that the Commissioner shall schedule an examination at least once in each calendar month, and any applicant otherwise eligible to take the examination shall be allowed at his request to take at that time all examinations relative to licenses for which he has applied, including examinations for license as an agent for life and disability insurances under chapter 8 of this code.

Section 126. EXAMINATION FOR LICENSE; SCOPE, CONDUCT AND GRADING. (1) An applicant for license as agent, broker or solicitor shall be so examined as to any one or more of the following kinds of insurance or insurance classifications, as applied for:

- (a) Automobile physical damage insurance.
- (b) Automobile liability insurance.
- (c) General casualty insurances.

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(d) Property insurance, from which questions dealing with wet marine and transportation insurance may be omitted in the Commissioner's discretion.

(e) Fidelity and surety insurances.

(f) Any other reasonable classification prescribed by order of the Commissioner.

(2) The examination shall be upon written questions furnished the applicant by the Commissioner immediately prior to examination. Each and every such question shall be taken from the questions and answer booklet exactly as such questions appear in the booklet provided for in section 33 (1) (d) of this code. Prior to the examination, the Commissioner shall value each question to be asked therein and the sum of such values shall total one hundred (100). Each of the answers given shall correspondingly be valued proportionately to its correctness and the sum of such values totaling seventy (70) shall constitute a passing grade. The Commissioner may secure the assistance of the State Personnel Department in the preparation and analysis of the written portions of the examination.

(3) The Commissioner shall give, conduct and grade all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.

(4) Upon the completion of the examination, the questions and answers of the applicant shall, by the person conducting the examination, be sealed in an envelope and forthwith delivered to the Commissioner and be graded within the next ten (10) days.

(5) His graded examination papers shall be available for review by the applicant at the Commissioner's office at Montgomery for a period of not less than six (6) months after the date of the examination.

Section 127. SAME: EXAMINATION FOR CAUSE ON RENEWAL, REINSTATEMENT OR CONTINUATION OF LICENSE. In every case where he has probable cause to find and does find that the applicant for renewal or continuation of a license does not possess the necessary qualifications of education, training and experience where prescribed by this chapter or reasonably required for the lawful discharge of his responsibilities under the license, the Commissioner shall require the applicant to take and pass a written examination as a condition precedent to the renewal of the license.

Section 128. SAME; EXEMPTIONS FROM EXAMINATION.

(1) Except as provided in section 127, an agent, broker or solicitor, lawfully licensed as such immediately prior to the effective date of this code shall not be required to take an examination as to any kind of insurance or classification thereof as

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to which he is so licensed. This section does not apply to agents, solicitors or brokers who presently hold a temporary license, pending written examination.

(2) If, after such effective date, any such license is permitted to expire or is otherwise terminated and remains out of effect for a period of twenty-four (24) consecutive months, the exemption from examination provided for in subsection (1) above shall no longer be applicable.

Section 129. EXAMINATION FOR LICENSE; ADVISORY CONSULTATIONS. The Commissioner shall from time to time, as an aid to the efficient administration of this chapter, consult with individuals experienced in the fire, casualty and miscellaneous casualty insurance business, to include officers, employees, managing general agents, managers and licensed agents of insurers engaged in such business to the end that an orderly and effective program be developed as to scope, type and conduct of written examinations and the times and places in the state when and where they shall be held.

Section 130. ISSUANCE OR DENIAL OF LICENSE. (1) Within ten (10) days after receipt of the applicant's answers to examination questions, after examination for license as provided in this chapter, or within ten (10) days after completion of the application for license in the case of an applicant for license as managing general agent or service representative, the Commissioner, if the applicant has passed any examination required and is otherwise qualified for the license pursuant to this chapter, shall notify the applicant that he is eligible for a license. Upon payment of the license issuance fee provided by section 76 (1), the filing (if for an agent's license) of an appointment of the agent by an insurer as provided in section 134, and payment of the appointment fee prescribed in section 76 (1) (e) (i), the Commissioner shall issue the license to which the applicant is so entitled.

(2) If the Commissioner finds that the applicant is not entitled to receive any license applied for, he shall within ten (10) days after receiving the applicant's examination questions and answers, or within ten (10) days after completion of the application for license in the case of an applicant for license as managing general agent or service representative, give the applicant written notice that the license is refused, stating the grounds for refusal.

Section 131. REAPPLICATION AND REEXAMINATION. The failure of an applicant to be licensed by reason of any remediable cause upon application, examination or both, shall not preclude a reapplication or reexamination one additional time

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within thirty (30) days after the denial of a license, but thereafter the Commissioner shall not consider any further application from the same applicant within six (6) months after the date upon which the issuance of a license was last denied. A new application fee shall not be charged for any reapplication properly made within thirty (30) days from the date upon which the license was denied, however, the examination fees are again due.

Section 132. CONTENTS AND NUMBER OF LICENSES. (1) The license of a managing general agent or service representative shall state the name and address of the licensee, the name of the insurer to be so represented, date of issue and of expiration, and the general conditions of the license. The licensee shall have a separate and additional license as to each insurer so represented.

(2) The license of an agent shall state the name and address of the licensee, the name of the insurer represented, date of issue, general conditions relative to expiration or termination, the kinds of insurance or classifications thereof covered by the license, as classified under section 126 (1), and the general conditions of the license. The license shall state the name of the insurer to be so represented, and the agent shall be required to have a license for each insurer by whom he is appointed as an agent as to property, casualty and surety insurances, and including disability insurance where transacted by an insurer also represented by the agent as to property, casualty or surety insurances.

(3) The license of a broker shall state the licensee's name and address, the kinds of insurance or classifications thereof covered by the license, as classified under section 126 (1), date of issuance, conditions relative to expiration or termination, and the general conditions of the license.

(4) The license of a solicitor shall state the licensee's name and address, the name and address of the agent or broker by whom he is appointed, the kinds of insurance or classifications thereof covered by the license, as classified under section 126 (1), conditions relative to expiration or termination, and the general conditions of the license.

Section 133. CONTINUANCE, EXPIRATION OF LICENSES. (1) All agent, broker, solicitor, managing general agent and service representative licenses issued under this chapter shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the Commissioner annually on or before December 31 of the applicable continuation fee as stated in section 76, accompanied by written request for such continuation. Request for continuation shall be made as follows:

(a) As to broker's license, request for continuation signed by the licensee.

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(b) As to solicitor's license, request for continuation signed by the appointing agent or broker.

(c) As to managing general agent's license, request signed by the insurer to be so represented.

(d) As to service representative's license, request signed by the insurer or managing general agent to be so represented.

(e) As to agent's licenses, request signed by the insurer to be represented.

(2) Any license as to which the request for continuation and fee is not received by the Commissioner as required under subsection (1) above, shall be deemed to have expired as at midnight December 31 above mentioned. Request for continuation of any such license or payment of the continuation fee therefor which is received by the Commissioner after such December 31 and prior to the next following February 15 may be accepted and effectuated by the Commissioner, in his discretion, if accompanied by an annual continuation fee in twice the amount otherwise required.

(3) The license of an agent shall continue in force as long as there is in effect as to such agent, as shown by the Commissioner's records, an appointment or appointments as agent of authorized insurers, covering collectively all of the kinds of insurance or classifications thereof included in the agent's license. Upon termination of all of such licensee's agency appointments as to a particular kind of insurance or classification thereof and failure to replace such appointment within ninety (90) days thereafter, the licensee's license as agent shall automatically thereupon expire and terminate as to such kind of insurance or classification and the licensee shall promptly deliver his license to the Commissioner for reissuance, without fee or charge, as to the kinds of insurance or classifications thereof, if any, covered by the licensee's remaining agency appointments.

(4) This section does not apply to temporary licenses issued under sections 135 through 138.

Section 134. APPOINTMENT OF AGENTS; CONTINUATION AND TERMINATION. (1) Each insurer appointing an agent in this state shall file with the Commissioner the appointment, specifying the kinds of insurance or classifications thereof as specified in section 126 to be transacted by the agent for the insurer, and pay the appointment fee as specified in section 76. If the insurer also transacts disability insurance, the agent may be appointed by the same insurer also as to disability insurance without requiring an additional appointment or appointment fee.

(2) Subject to annual continuation by the insurer not later than December 31 each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless

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written notice of earlier termination of the appointment is filed with the Commissioner by the insurer or agent.

(3) Annually, prior to December 31, each insurer shall file with the Commissioner an alphabetical list of the names and addresses of all its agents whose appointments in this state are to remain in effect, accompanied by payment of the annual continuation of appointment fee as provided in section 76. At the same time, the insurer shall also file with the Commissioner an alphabetical list of the names and addresses of all of its agents whose appointments in this state are not to remain in effect, and shall give written notice thereof to all such agents where reasonably possible. Any appointment not so continued and not otherwise expressly terminated, shall be deemed to have expired as at midnight on December 31.

(4) Subject to the agent's contract rights, if any, an insurer may terminate an agent's appointment at any time. The insurer shall promptly give written notice of such termination to the Commissioner, and to the agent where reasonably possible. The Commissioner may require of the insurer reasonable proof that the insurer has given such notice to the agent, whether upon termination of the appointment by affirmative action of the insurer or by failure of the insurer to continue the appointment as provided for in subsection (3) above.

(5) As part of the notice of termination given the Commissioner, and in connection with the insurer's list of agent's appointments not to be continued as provided for in subsection (3) above, the insurer shall file with the Commissioner a statement of the facts relative to the termination or noncontinuance and the cause thereof. Any such information or statement and information or statements supplemental thereto shall be privileged and shall not form the basis of, or be admitted as evidence in, any action or proceeding against the insurer, or any director, officer, employee or representative of the insurer by or on behalf of any person affected by such termination.

Section 135. TEMPORARY LICENSE — DEATH OR DISABILITY OF AGENT OR BROKER. (1) The Commissioner may, in his discretion, issue a temporary license as agent or broker to a licensed agent's or broker's employee, family member, associate, or personal representative, or to the salaried employee of an insurer of which the agent was the sole licensed agent in Alabama, all subject to the following conditions:

(a) The agent or broker must have become deceased, or unable to perform his duties as agent or broker because of military service, illness or other physical or mental disability.

(b) There must be no other person connected with the agent's or broker's business who is a licensed agent or broker and willing

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to act for the agent or broker.

(c) The proposed temporary licensee must be qualified as for an agent's or broker's license under this chapter, except as to residence, examination, education, training, experience and knowledge of insurance.

(d) Application for the temporary license must be made by the applicant by statement and affidavit filed with the Commissioner on forms as prescribed and furnished by him.

(e) The temporary license shall be valid for a period of not over six (6) months, and, except as to one renewal in the case of disabling or confining illness or injury of the agent or broker, shall not be renewed either to the then holder of the temporary license or to any other person for or on behalf of the agent, agency, or broker.

(f) As to a temporary license as agent issued on account of the death or disability of an agent, the licensee may so represent all of the insurers last represented by such deceased or disabled agent and, without the making of new appointment of such licensee by such insurers; but the licensee shall not be appointed as to any additional kind or classification of insurance under a temporary license. This provision shall not be deemed to prohibit termination of its appointment by any insurer.

(g) The holder of a temporary license may be granted a regular agent's or broker's license upon taking and passing an examination as required under this chapter, if then otherwise qualified for such a regular license.

(2) If the temporary licensee becomes entitled to receive a regular license prior to expiration of the temporary license, he shall surrender the temporary license to the Commissioner at the time the regular license is issued.

(3) The applicant for a temporary license shall pay to the Commissioner, prior to the issuance thereof, the applicable license fee as specified in section 76.

Section 136. TEMPORARY LICENSE — PENDING EXAMINATION OF AGENT. (1) The Commissioner may, in his discretion, issue a temporary license as agent to an applicant for a regular agent's license who is qualified for such regular license except as to having taken and passed a written examination therefor, if the applicant is actively engaged in a course of study, instruction and field training approved by the Commissioner and under the supervision of the insurer. The insurer shall be responsible for all acts and omissions of the licensee under the temporary license and within the scope of his employment or appointment.

(2) The temporary license shall be valid for six (6) months, within which period the licensee shall submit to a written

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examination for a regular agent's license, and for such further time until the Commissioner has notified the applicant of the result of the examination.

(3) Subsections (2) and (3) of section 191 also shall apply as to such temporary licenses.

Section 137. TEMPORARY LICENSE – NEW RESIDENTS OF ALABAMA. (1) The Commissioner may, in his discretion, issue a temporary license as agent to a resident of Alabama who was properly licensed as a resident agent or broker in another state under the laws of such state for the twelve (12) consecutive months immediately prior to becoming a resident of Alabama, subject to the following conditions:

(a) The applicant must apply for the temporary license within thirty (30) days after becoming a resident of Alabama.

(b) The applicant must take and pass a written examination covering the kinds of insurance or classifications thereof proposed to be transacted, and be qualified as for a regular license as agent in all respects except as to the period of residence in Alabama.

(c) The state from which the applicant moved to Alabama must accord like privileges to former Alabama residents who move into that state.

(d) The Insurance Commissioner or other state official having supervision of insurance of such other state must certify, in writing filed with the Commissioner, that the applicant had been a licensed resident agent or broker of such state during the period specified in the first paragraph of this subsection.

(e) The license shall be valid for a period of not more than six (6) months.

(2) Subsections (2) and (3) of section 135 shall apply also as to such temporary licenses.

Section 138. TEMPORARY LICENSE – APPRENTICE SOLICITORS. (1) The Commissioner may, in his discretion, issue a temporary license as solicitor to an individual who is a bona fide apprentice solicitor in the office of a licensed agent or broker, subject to the following conditions:

(a) The application for the license shall be by the apprentice and the agent or broker with whom he is to be so associated.

(b) The agent or broker must agree, in the application, diligently and faithfully to instruct the apprentice as to the insurance business and the laws, rules and regulations pertaining thereto, so that the apprentice may become qualified for a regular license as solicitor. The agent or broker must in good faith fulfill the terms of such agreement.

(c) The agent or broker shall be responsible for the acts and

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omissions of the apprentice within the scope of his authority as an apprentice solicitor.

(d) The temporary license shall state that it is an apprentice solicitor license, and shall cover only the kinds of insurance or classifications thereof which the sponsoring agent or broker is licensed to transact.

(e) The temporary license shall be valid for six (6) months, and shall not be renewed.

(2) Subsections (2) and (3) of section 135 shall apply also as to such temporary licenses.

Section 139. SPECIAL REQUIREMENTS AS TO SOLICITORS. (1) The same individual shall not be appointed or licensed as a solicitor as to more than one agent or broker.

(2) The solicitor's license shall cover all the kinds of insurance and classifications thereof, other than life and disability insurance, for which the appointing agent or broker is licensed; except that the solicitor's license shall also cover disability insurance where written by an insurer also represented by the agent as to property or casualty or surety insurance.

(3) A solicitor shall not concurrently be licensed as broker, nor as an agent except as to life or disability insurance.

(4) A solicitor shall not have authority to bind risks or countersign policies.

(5) The transactions of a solicitor under his license shall be in the name of the agent or broker by whom appointed, and the agent or broker shall be responsible for the acts or omissions of the solicitor within the scope of his appointment.

(6) The solicitor shall maintain his office with that of the appointing agent or broker, and records of his transactions under the license shall be maintained as part of the records of such agent or broker.

(7) The solicitor's license shall remain in the custody of the appointing agent or broker. Upon termination of the appointment, the agent or broker shall give written notice thereof to the Commissioner and deliver the license to the Commissioner for cancellation.

Section 140. INSURANCE VENDING MACHINES. Section 171, as to licensing of vending machines for the sale of personal travel accident insurance, shall also apply as to agents licensed under this chapter and appointed as such by any insurer authorized to transact disability insurance in this state.

Section 141. NONRESIDENT AGENTS AND BROKERS; RESIDENT COUNTERSIGNING AGENT'S COMMISSIONS. (1) The Commissioner may upon written application made to him and payment of the license fee required under section 76, issue a

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license as a nonresident agent or nonresident broker to an individual otherwise qualified therefor under this chapter but who is not a resident of this state, if by the laws of the state of his residence like licenses are granted to residents of this state.

(2) Any such licensing is also subject to the following conditions:

(a) The applicant must hold a license as an agent or broker in the state of his residence.

(b) The applicant or licensee must not have any direct or indirect pecuniary interest in any agent, insurance agency, broker or solicitor licensed as a resident of this state, nor shall he establish or maintain any kind of office or place of business in this state.

(c) The licensee must not enter this state for the purpose of inspecting any risk or property without the written advance permission of the insured or that of a countersigning Alabama agent on such risk; nor shall the licensee directly or indirectly in this state solicit, negotiate or effect insurance policies unless accompanied by a resident agent of Alabama who is the countersigning agent on any insurance policy or policies so solicited, negotiated or effectuated. This provision shall not be deemed to apply to a service representative as defined in section 118.

(3) A countersigning resident agent cooperating with a nonresident agent or broker shall collect and retain the usual commission paid, if any commissions be paid, by the insurer, except that not over one-half ($\frac{1}{2}$) of the commission may be paid by him to the licensed nonresident agent or broker.

Section 142. NONRESIDENT AGENTS AND BROKERS — SERVICE OF PROCESS. (1) Each licensed nonresident agent and broker shall appoint the Commissioner as his attorney to receive service of legal process issued against such agent or broker in this state, upon causes of action arising within this state out of transactions under the nonresident agent's or broker's license. Service upon the Commissioner as such attorney shall constitute effective legal service upon the nonresident agent or broker.

(2) The appointment shall be irrevocable for as long as there may be any such cause of action in this state against the nonresident agent or broker.

(3) Service of process under this section shall be made by leaving three (3) copies of the summons and complaint, or other process with the Commissioner, and such service shall be sufficient service upon such nonresident if notice of the service and a copy of the summons and complaint or other process are forthwith sent by registered mail to the defendant by the Commissioner; and the defendant's return and the certificate of the Commissioner certifying compliance herewith shall be filed in the office of the

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clerk of court, or in the court or tribunal wherein the action is pending. The certificate of the Commissioner shall show the date of the mailing by registered mail of the notice of the service and copy of the summons and complaint, or other process to the nonresident defendant and the date of the receipt of the return card, and shall be signed by the Commissioner. The Commissioner may give the nonresident defendant notice of such service upon him, in lieu of the notice of service hereinabove provided to be given by registered mail, in the following manner: By having a notice of such service and a copy of the summons and complaint, or other process, served upon the nonresident defendant, if found within the state of Alabama, by any officer duly qualified to serve legal process within the state of Alabama; or if the nonresident defendant is found to be outside of the state of Alabama, by a sheriff, deputy sheriff, or United States Marshal or Deputy United States Marshal, or any duly constituted officer qualified to serve like process in the state or the jurisdiction where the nonresident defendant is found; and the officer's return showing such service, when made, shall be filed in the office of the clerk of the court, or in the court or tribunal wherein the action is pending, on or before the return day of the process, or within such further times as the court or tribunal may allow; and the court or tribunal in which the action is pending may order such continuance or continuances as may be necessary to afford the nonresident defendant reasonable opportunity to defend the action.

(4) The Commissioner shall keep on file in his office a copy of the summons and complaint or other process so served upon him, together with a record of all such process and of the day, hour and manner of service.

Section 143. PLACE OF BUSINESS — DISPLAY OF LICENSE. (1) Every managing general agent, resident agent and broker shall have and maintain in this state a place of business accessible to the public. The place of business shall be that wherein the licensee principally conducts transactions under his license. The address of such place shall appear upon the license, and the licensee shall promptly notify the Commissioner of any change thereof. Nothing in this section shall be deemed to prohibit maintenance of such a place of business in the licensee's place of residence in this state.

(2) The licenses of the licensee, and the licenses of solicitors appointed by and representing the licensee, shall be conspicuously displayed by the licensee in his place of business in a part thereof customarily open to the public.

Section 144. RECORDS. (1) The agent or broker shall keep at his place of business complete records pertaining to transactions

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under his license and the licenses of his solicitors. If an agent, the licensee shall make and keep daily reports of all policies countersigned by him.

(2) The agent's records shall include also record of all policies executed or countersigned by him and representing coverages handled by a nonresident agent or nonresident broker. Upon the Commissioner's request, the agent shall furnish a verified copy of such record to the Commissioner to aid him in the collection of all privilege taxes due in this state.

(3) The licensee shall exhibit to an insured, at any reasonable time during business hours, records in his office pertaining to policies of the insured upon the insured's demand; and the agent, and the insurer represented by him, shall permit the insured or his representative to make copies of any such records.

Section 145. RIGHTS OF AGENT FOLLOWING TERMINATION OF APPOINTMENT. (1) Following termination of his agency appointment as to an insurer, the agent may continue to service, and receive from the insurer commissions or other compensation relative to, policies written by him for the insurer during the existence of the appointment. He may countersign all certificates or endorsements necessary to continue such policies, including renewal option periods, and collect and remit premiums due thereon, but shall not otherwise change or modify any such policy in any way nor increase the hazards insured against therein; except that the limited authority hereinabove provided for shall cease as to any kind of insurance or classification thereof as to which the agent no longer holds a currently valid appointment as agent by any insurer, and such authority shall terminate altogether upon expiration or termination of the agent's license.

(2) This section does not apply as to agents of direct writing insurers or to agents and insurers between whom the relationship of employer and employee exists.

Section 146. EXCHANGE OF BUSINESS. (1) An agent may place with an insurer for which he is not an appointed and licensed agent only a kind of insurance or classification thereof for which he is licensed, by placing such insurance through a duly appointed and licensed agent of the insurer.

(2) In addition to any other penalties provided for, the licenses of any licensee violating or participating in the violation of this section may be suspended or revoked in the discretion of the Commissioner, and if so suspended or revoked the licenses shall not be restored for a period of at least one year.

Section 147. SHARING COMMISSIONS. (1) No licensee shall divide with others or share in any commissions payable on account

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of the exercise of a license under this code except as follows:

(a) An agent may divide or share in the commissions with his own solicitors and with other resident agents or solicitors licensed as to the same kinds of insurance or classifications thereof.

(b) An agent, broker or solicitor, and a nonresident agent or broker, subject to the provisions of section 141, may divide between themselves commissions as to a kind of insurance or classification thereof as to which both are licensed.

(2) Violation of this section shall be punishable as provided in section 146 (2).

Section 148. REPORTING AND ACCOUNTING FOR FUNDS. (1) All premiums, return premiums or other funds belonging to others received by an agent, broker or solicitor in transactions under his license, shall be trust funds so received by the licensee in a fiduciary capacity, and the licensee in the applicable regular course of business shall account for and pay the same to the insurer, insured, agent, broker or other person entitled thereto.

(2) Any agent, broker or solicitor who, not being lawfully entitled thereto, diverts or appropriates such funds or any portion thereof to his own use, shall upon conviction be guilty of embezzlement and shall be punished as provided by law as if he had stolen such funds.

Section 149. COMPLAINTS AGAINST LICENSEES — HEARING — ORDER. (1) Any person having an interest and feeling aggrieved may file a complaint with the Commissioner against any licensed agent, solicitor, broker, managing general agent or service representative for the purpose of revocation or suspension of his license. The complaint shall be in writing and shall specify in reasonable detail the charge or charges made, the truth of which shall be sworn to by the complainant or some other person who has knowledge of the facts averred.

(2) If, upon reviewing the complaint, the Commissioner finds that the charges made therein constitute grounds for the revocation or suspension of the license under section 151 of this chapter, he shall forthwith notify the licensee against whom the complaint has been made and serve him with a copy of the complaint. Service of the notice and copy of the complaint made shall be sent by registered mail, addressed to the licensee at the address shown by the records of the Commissioner, return receipt requested and marked "deliver addressee only."

(3) Within thirty (30) days after service upon the licensee of the copy of the complaint made against him, the licensee shall file with the Commissioner his answer in writing to the charges, either specifically admitting or denying, or specifically confessing and avoiding each of the charges made. If the licensee against whom

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the complaint has been made stands in default for answer, the charges set forth in the complaint shall be taken as admitted.

(4) Within ten (10) days after receipt of the licensee's answer, the Commissioner shall fix a time and place for the hearing of the complaint at his office or elsewhere as provided in section 45 and shall serve notice thereof upon the licensee and the complainant by registered mail as hereinabove provided with respect to service of the complaint upon the licensee; such notice shall be served at least thirty (30) days before the date fixed for the hearing, which date of hearing shall be not less than ninety (90) days after service of the complaint upon the licensee.

(5) At the time fixed by the Commissioner for the hearing, the complaint shall be heard before the Commissioner or a deputy appointed by him and the complainant and licensee may each be represented by an attorney at law and may give the testimony and offer proof, documentary or ore tenus, as to the truth of the charges and any denial thereof.

(6) The Commissioner shall have any power of subpoena, subpoena duces tecum or discovery obtaining in the circuit courts of this state, and any party shall have the right, upon request in writing filed with the Commissioner, to cause a writ of subpoena to issue out of the office of the Commissioner which shall be signed by him or his deputy and directed to the sheriff of any county of this state returnable to the office of the Commissioner. The cost of issuing and serving subpoenas and witness fees shall be the same as such costs and fees in the circuit court and shall be recoverable by the prevailing party from the other party. The Commissioner shall tax such costs and upon the same not being paid without a period of ten (10) days therefrom, payment thereof may be enforced in any court having jurisdiction over the person of the defaulting party.

(7) The testimony may be taken orally or by deposition, and any party shall have the right of introducing proof by deposition as may obtain in the circuit courts of this state either at law or in equity.

(8) The Commissioner or his deputy shall preside over the hearing, and shall make a written finding of facts upon which his decisions shall be based.

(9) The Commissioner shall, within ten (10) days after the conclusion of the hearing, make a ruling in writing fully disposing of the complaint and a copy of the ruling shall be served upon the complainant, the licensee and all interested parties represented by the licensee, by registered mail, addressed to the licensee at the address shown by the records of the Commissioner.

(10) Pursuant to such hearing, if the Commissioner finds that the grounds therefor exist under section 151 of this chapter, he

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may suspend or revoke the licenses of the licensee complained against.

Section 150. PRIVILEGED INFORMATION. (1) Any communications, complaint, evidence, testimony, document, deposition, affidavit, statement or other proof filed, given or proffered at the hearing provided for in section 149 shall be absolutely privileged to the same extent as in a court of law and shall never form the subject matter of any action, claim or proceeding against the person filing, giving or proffering the same nor against the principal or representative of such person.

(2) Reports of investigation, copies thereof and information furnished the Commissioner by any insurer, agent, solicitor, broker, managing general agent or service representative and any other person shall be absolutely privileged communications and no such report, copy, information or document, affidavit, statement, deposition or testimony so furnished to the Commissioner shall ever form the subject matter of any action, claim or proceeding against any such person.

Section 151. GROUNDS FOR REFUSAL, SUSPENSION OR REVOCATION OF LICENSE. The Commissioner may refuse to renew or continue, or may suspend or revoke the license of any licensee under this chapter upon any of the following grounds:

(1) For any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner.

(2) For the wilful misrepresentation of any material fact in any application or in any communication to the Commissioner.

(3) For intentional, material misrepresentation with respect to any insurance policy.

(4) For rebating.

(5) For inducing, persuading or advising any policyholder to surrender or cause to be cancelled any policy of insurance issued to such policyholder by any authorized insurer in exchange for a policy offered by the licensee where such surrender or cancellation shall proximately result to the financial detriment of such policyholder unless such policyholder shall have been fully advised of that fact by such licensee.

(6) For fraudulent or dishonest practices in the conduct of business under a license.

(7) For being in default, for a period of sixty (60) days or more, in remitting to any insurer premiums collected by such applicant or licensee, after receiving demand, accompanied by proof and justification, from such insurer.

(8) For the misappropriation, conversion or unlawful withholding of any monies belonging to the insurers, insureds or others received by the licensee in the exercise of his license.

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(9) For wilful failure to comply with or wilful violation of any valid order, rule or regulation issued by the Commissioner.

(10) For wilful violation of any provision of this code.

Section 152. PROCEDURE FOR SUSPENSION, REVOCATION OF LICENSE. The Commissioner shall institute a proceeding to suspend or revoke a license by filing and serving a complaint as to the licensee, giving notice thereof to all interested parties the licensee is licensed or appointed to represent, and otherwise proceeding as provided in section 149. The Commissioner is not required to swear to such a complaint.

Section 153. NOTICE OF REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE. Upon refusal to renew or upon suspension or revocation of any license, the Commissioner shall forthwith give written notice thereof to the licensee and all persons and insurers represented by the licensee and of record in the Commissioner's office. The notice shall state the grounds for the Commissioner's action. If a proceeding as provided for in section 149 has not already been had as to such action, upon written demand of any interested party feeling aggrieved and filed with the Commissioner within ten (10) days after the above notice the Commissioner shall institute a complaint against the licensee under section 149 within ten (10) days after receipt of the demand.

Section 154. SURRENDER OF LICENSE. (1) All licenses issued under this chapter, though issued to a licensee, at all times are the property of the State of Alabama, and upon notice of any suspension, revocation, refusal to renew, expiration or other termination of the license, the licensee or other person having possession or custody thereof shall promptly deliver the license to the Commissioner for cancellation.

(2) As to any license lost, stolen or destroyed while in the possession of any such licensee or person, the Commissioner may accept in lieu of return of the license the affidavit of the licensee or other person responsible for or involved in the safekeeping of such license, concerning the facts of such loss, theft or destruction.

CHAPTER 8

LIFE AND DISABILITY INSURANCE AGENTS

Section 155. SCOPE OF CHAPTER. This chapter applies only as to agents, subagents and other insurance representatives as defined in this chapter with respect to life insurance and annuity contracts, and to disability insurance where written by an insurer authorized to transact disability insurance only or authorized to transact also life insurance.

Section 156. "AGENT" DEFINED. (1) An agent is a natural person appointed and authorized by an insurer to solicit applications or to negotiate for insurance or annuity contracts on its behalf, and if authorized to do so by the insurer, to collect premiums in connection therewith.

(2) The term "agent" does not include any of the following:

(a) Any regular salaried officer or employee of an insurer or agent who does not solicit or accept from the public applications for any such insurance or contracts;

(b) A ticket-selling agent of a common carrier who sells accident insurance tickets to individuals; or

(c) Any regular salaried officer or employee of an insurer who renders assistance to or on behalf of a licensed agent of the insurer, it such officer or employee devotes substantially all of his time to activities other than the solicitation of applications for insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business obtained.

Section 157. LICENSE REQUIRED; FORMS. (1) No person shall in this state be, act as, hold himself out as or claim to be or act as an agent unless then licensed as an agent under this chapter.

(2) The Commissioner shall prescribe and furnish on request all forms required in connection with application for, issuance or termination of licenses.

Section 158. GENERAL QUALIFICATIONS FOR LICENSE. For the protection of the people of this state, the Commissioner shall not issue, continue or permit to exist any agent license except to a natural person in compliance with this chapter, or as to any individual not qualified therefor as follows:

(1) Must be a citizen of the United States of America, or Canada or a permanent resident under United States immigration laws, and a resident of this state except as to licenses issued to nonresidents under section 170.

(2) Must be trustworthy, of good moral character; and not

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have been convicted of a felony or of any crime involving moral turpitude, unless fully pardoned with restoration of civil rights.

(3) Must have had sufficient education, experience and training to make him reasonably competent to fulfill the responsibilities of a licensed agent.

(4) Must intend to, and commencing after issuance of the license shall during the existence of the license, actively engage as to the general public in the business permitted under the license.

(5) Must not use, or intend to use, the license principally for the purpose of procuring insurance on his own risks or interests or those of his relatives to the second degree or the officers, directors, stockholders, partners or employees of any partnership, association or corporation of which he or a member of his family is an officer, director, substantial stockholder, partner or employee.

(6) Must not use, or intend to use, the license principally for the purpose of procuring or assisting in the procurement of insurance on the lives of customers of a retail merchandise establishment or department store which does not maintain at least one place of business in this state where the credit facilities of such retail merchandise establishment or department store are used by the customer for the payment of premiums on such insurance, and where such establishment or store or the owners, officers, directors or employees thereof receive, directly or indirectly, any commission or other valuable consideration for the writing of such insurance or the collecting of premiums thereon from the agent or the insurer. This subparagraph shall not apply to credit life or credit disability insurance.

(7) Must pass any written examination for the license required under this chapter.

Section 159. APPLICATION FOR LICENSE. (1) The Commissioner shall not issue any license except upon application therefor as provided in this section. Each applicant for a license as agent shall file with the Commissioner has written application therefor signed by him, verified by his oath and showing:

(a) Applicant's full name, residence, age, occupation and place of business for five (5) years next preceding the date of the application;

(b) Whether applicant has ever held a license to solicit insurance contracts in any state;

(c) Whether applicant has ever been refused, or has had suspended or revoked, any license to solicit insurance contracts in any state;

(d) What insurance experience, if any, he has had;

(e) What instruction in insurance and in the insurance laws of this state he has had or expects to have;

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(f) Whether any insurer or general agent claims that applicant is indebted to the insurer or general agent under any agency contract or otherwise, and if so the same of the claimant, nature of the claim and applicant's defense thereto;

(g) Whether applicant has had any agency contract cancelled, and if so when, by what insurer or general agent and the reasons for the cancellation;

(h) Whether applicant will devote all or part of his efforts to acting as an insurance agent, and if parttime only, how much time he expects to devote to work as an agent and in what other business or businesses he is engaged or employed;

(i) Whether, if applicant is married, the spouse has ever applied for or held a license to solicit insurance in any state, and whether any such license has ever been refused, suspended or revoked; and

(j) Such other information as the Commissioner may reasonably require.

(2) The application shall be accompanied by a certificate on forms furnished by the Commissioner and signed by an officer or duly authorized representative of the insurer stating, if true, that the insurer has investigated the character and background of the applicant and is satisfied that he is trustworthy and qualified to act as its agent and to hold himself out in good faith to the general public as an agent, and that the insurer desires that the applicant be licensed as an agent of the insurer.

(3) When filed, the application shall be accompanied by the application for examination filing fee specified in section 76, if the applicant is subject to an examination under this chapter. Any such fee shall not be subject to refund whether or not the applicant in fact takes an examination.

Section 160. EXAMINATION FOR LICENSE REQUIRED; EXEMPTIONS. After completion and filing of the application for license as required under section 159, each applicant for a license as agent shall submit to a personal written examination to determine his competence to be an agent, and his familiarity with the pertinent provisions of the insurance laws of this state, and shall pass the same to the satisfaction of the Commissioner; except, that no such examination shall be required of:

(1) An applicant for renewal or continuation of a license, unless the Commissioner determines that an examination is necessary to establish the competency of the applicant.

(2) An applicant whose license is limited to acting only as an agent with respect to life, health and accident insurance on borrowers or debtors, commonly known as credit life, health and accident insurance, if such applicant is a fulltime employee of the institution granting the credit.

(3) An applicant whose license is limited to acting as an agent

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with respect to ticket travel accident policies.

(4) In the Commissioner's discretion, an applicant whose license was suspended or otherwise terminated less than one (1) year prior to the date of application.

(5) Any agent otherwise qualified for license under this chapter who held license as such an agent on the effective date of this code; but this exemption shall apply only as to a kind of insurance or classification thereof covered by such license.

Section 161. EXAMINATION CLASSIFICATIONS. (1) The Commissioner shall establish rules and regulations with respect to:

(a) The classification of applicants according to the type of insurance to be effected by them if licensed as agents;

(b) The scope, type and conduct of written examinations; and

(c) The times and places within this state for the holding of such examinations. An applicant shall be permitted to take an examination once in each two (2) weeks in the principal office of the Commissioner, and an examination shall be held at least as often as once in each three (3) months in each congressional district.

(2) Such rules and regulations shall classify applicants for purposes of this section as follows:

(a) Those desiring to write life insurance;

(b) Those desiring to write disability insurance;

(c) Those desiring to write weekly premium disability insurance;

(d) Those desiring to write weekly premium life insurance;

(e) Those desiring to write any combination of two or more of the above classifications; and

(f) Such other classifications as, in the opinion of the Commissioner, are necessary or appropriate.

(3) Examinations shall be prepared and given in those subjects only which pertain to the classification or classifications which the applicant desires to write, and no applicant shall be required to take an examination on a subject or subjects pertaining to any other classification. Prior to the examination, the Commissioner shall value each question to be asked therein and the sum of such values shall total one hundred (100). Each of the answers given shall correspondingly be valued proportionately to its correctness and the sum of such values totaling seventy (70) shall constitute a passing grade. An applicant shall have the right to be examined as to all of such classifications in the same examination, and shall be required to pay but one examination application filing fee therefor.

(4) The Commissioner may secure the assistance of the State Personnel Department in the preparation and analysis of the written portions of the examination.

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Section 162. EXAMINATION TEXTBOOKS AND MANUALS. The rules and regulations of the Commissioner shall designate textbooks, manuals and other materials to be studied by applicants in preparation for examinations in each classification designated by the Commissioner pursuant to section 161. Such textbooks, manuals or other materials may consist of matter available to applicants by purchase from the publisher or may consist of matter prepared at the direction of the Commissioner and distributed to applicants upon request and payment of the reasonable cost thereof. If textbooks, manuals or other materials are so designated or prepared by the Commissioner, all examination questions shall be prepared from the contents of such textbooks, manuals or other materials, exactly as such questions appear in the booklet provided for in section 33 (d).

Section 163. CONDUCT OF EXAMINATION. All examinations for license under this chapter shall be conducted by the Commissioner, who shall grade all examination papers in a fair and impartial manner and without unfair discrimination in favor of or against any individual being so examined.

Section 164. REEXAMINATION. No person who has taken and failed to pass two (2) examinations given pursuant to section 160 shall be entitled to take any further examination until after the expiration of six (6) months from the date of the last examination in which he failed to pass. If such person thereafter fails to pass two (2) more such examinations, he shall not be eligible to take any further examination until after the expiration of one (1) year from the date of his last unsuccessful examination. An examination application filing fee shall be paid for each and every examination; except, that an applicant shall be permitted to take a single examination covering all classes of insurance contracts as defined in section 161.

Section 165. EXAMINATIONS — ADVISORY CONSULTATIONS. The Commissioner shall appoint an agency advisory board, as an aid to the efficient administration of this chapter, consult with individuals experienced in the life and disability insurance business to include officers, employees, general agents, managers and licensed agents of insurers engaged in such business, to the end that an orderly and effective program be developed as to scope, type and conduct of written examinations and the times and places in the state where they shall be held.

Section 166. ISSUANCE OR REFUSAL OF LICENSE. (1) If the Commissioner finds, after completion of the application therefor and successful passing of any examination required under

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this chapter, that the applicant is fully qualified and entitled thereto under this chapter, and upon payment of the license fee specified in section 76, the Commissioner shall promptly issue to the applicant the license to which he is so entitled.

(2) If the Commissioner finds that the applicant is not qualified for or entitled to the license under the provisions of this chapter, or that he failed to pass any examination required of him, he shall promptly give written notice to the applicant and the insurer by whom the applicant was sponsored, that the license is refused, stating the reasons therefor.

Section 167. CONTENTS, SCOPE OF LICENSE; NUMBER OF LICENSES. (1) The license shall state the name and address of the licensee, the name of the insurer to be represented, the kinds of insurance or classifications thereof covered by the license, date of issue and of expiration, and the general conditions of the license.

(2) The licensee shall have a separate and additional license as to each insurer represented.

(3) The Commissioner may, upon request, issue a single license covering all of the kinds of insurance and classifications thereof transacted by the same insurer.

Section 168. ADDITIONAL LICENSES. The Commissioner may issue additional licenses to any agent, when requested by an official or duly authorized representative of an insurer. Any such additional license shall be limited to the class or classes for which the agent holds a license. Any insurer may file a written request with the Commissioner for notification that an agent authorized to represent it has been licensed to represent another insurer, and the Commissioner shall so notify, giving the name and address of the additional insurer.

Section 169. TEMPORARY LICENSES. (1) The Commissioner, if satisfied that the applicant is otherwise qualified for a license under this chapter, shall issue a temporary license to an applicant for license pending completion of the examination required under section 160. A temporary license shall not be effective for more than six (6) months. The Commissioner, in his discretion, may renew a temporary license issued under this section one time upon proper application and for good cause. A temporary license may be terminated for cause pursuant to the provisions of this chapter.

(2) The temporary license shall be issued immediately, upon receipt by the Commissioner of an application executed by such person in the form required by section 159, together with the applicable license fee specified in section 76, and a certificate signed by an officer or properly authorized representative of the insurer stating, to the extent true:

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(a) That the insurer has investigated the character and background of such person and is satisfied that he is trustworthy;

(b) That such person has been appointed or is being considered for appointment by the insurer as a full time agent; and

(c) That the insurer desires that such person be issued a temporary license.

(3) If a temporary license is not received from the Commissioner within seven (7) days from the date on which the application and certificate were delivered to, or placed in the United States mail properly addressed to the attention of, the Commissioner, the insurer may assume that the temporary license will be issued in due course and may continue such person in its employment until notified by the Commissioner to the contrary.

(4) A temporary license shall not be granted to an applicant who intends to engage only part time as an agent.

Section 170. NONRESIDENT AGENTS. (1) The Commissioner may issue a license as agent to an individual who is otherwise qualified for such license under this chapter but is not a resident of this state, if the state in which such person resides accords the same privilege to residents of this state.

(2) The Commissioner has authority to enter into reciprocal agreements with the appropriate official of any other state waiving the written examination of any applicant resident in such other state, if:

(a) A written examination is required of applicants for an agent's license in such other state;

(b) The appropriate official of such other state certifies that the applicant holds a currently valid license as an agent in such other state and either passed a written examination or was the holder of an agent's license prior to the time a written examination was required; and

(c) In such other state, a resident of this state is privileged to procure an agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state.

(3) No such applicant or licensee shall have a place of business within this state for the transaction of business as such an agent.

(4) If under the laws of the other state requirements as to countersignature, division of commissions, solicitation with a resident agent, or as to other matters (other than amount of license fee) are imposed upon residents of this state transacting business as insurance agents in such state, then the Commissioner shall impose similar requirements as to residents of such state soliciting business as nonresident agents in this state.

(5) Section 142, relative to service of process, shall apply also to nonresident agents licensed under this section.

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(6) For the purposes of this section, the word “state” shall be construed as including a province of Canada.

Section 171. INSURANCE VENDING MACHINES AND CREDIT FACILITY INSURANCE. (1) A licensed resident agent may solicit applications for and issue policies of personal travel accident insurance by means of mechanical vending machines supervised by him and placed at airports, railroad stations, bus stations and similar places where transportation tickets are sold and of convenience to the traveling public, if the Commissioner finds:

(a) That the policy to be so sold provides reasonable coverage and benefits, is reasonably suited for sale and issuance through vending machines, and that use of such a machine therefor in a particular proposed location would be of material convenience to the public;

(b) That the type of vending machine proposed to be used is reasonably suitable and practical for the purpose;

(c) That reasonable means are provided for informing the prospective purchaser of any such policy of the coverage and restrictions of the policy; and

(d) That reasonable means are provided for refund to the applicant or prospective applicant of money inserted in defective machines and for which no insurance, or a less amount than paid for, is actually received.

(2) As to each such machine to be so used, the Commissioner shall issue to the agent a special vending machine license. The license shall specify the name and address of the insurer and agent, the name of the policy to be so sold, the serial number of the machine, and the place where the machine is to be in operation. The license shall be subject to annual continuation, to expiration, suspension or revocation coincidentally with that of the agent. The Commissioner shall also revoke the license as to any machine as to which he finds that the conditions upon which the machine was licensed, as referred to in subsection (1), no longer exist. The license fee shall be as stated in section 76 for each license year or part thereof for each respective vending machine. Proof of the existence of a subsisting license shall be displayed on or about each such vending machine in use in such manner as the Commissioner may reasonably require.

(3) No person shall knowingly solicit or negotiate any contract of insurance except credit life insurance and credit disability insurance, and accidental death benefit insurance or seek or accept applications for insurance issue or deliver any policy, for any insurance company, or otherwise transact insurance in this state, or relative to a subject of insurance, resident, located or to be performed in this state, through the arrangement or facilities of a

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credit card facility or organization or through the credit facilities of a retail merchandise establishment or department store. Provided, however, that nothing contained in this act shall prohibit an insurer authorized to do business in this state, the representative of such insurer, or an insurance agent, agency or broker from soliciting, negotiating, contracting or financing the sales of any such insurance or the doing of any acts in relation thereto as contemplated above where said solicitation is directed to the credit card holders or credit customers of any retail merchandise establishment or department store which maintains at least one business establishment in this state, provided that the laws of this state requiring counter-signature by a licensed agent resident in this state are complied with and said agent shall receive the applicable commission payable therefor.

Section 172. CONTINUANCE, EXPIRATION OF LICENSES.

(1) All licenses issued under this chapter (other than temporary licenses issued under section 169) shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the Commissioner annually by the insurer, on or before December 31, of the applicable continuation fee as stated in section 76, accompanied by the insurer's written request for such continuation.

(2) Any license as to which the request for continuation and fee is not received by the Commissioner as required under subsection (1) above, shall be deemed to have expired as at midnight on the December 31 above mentioned. Request for continuation of any such license or payment of the continuation fee therefor which is received by the Commissioner after such December 31 and prior to the next following February 15 may be accepted and effectuated by the Commissioner, in his discretion, if accompanied by a continuation fee in twice the amount otherwise required.

(3) Annually, prior to December 31, each insurer shall file with the Commissioner an alphabetical list of the names and addresses of all its agents whose licenses in this state are to continue in effect, accompanied by payment of the annual continuation fee above referred to. At the same time the insurer shall also file with the Commissioner an alphabetical list of the names and addresses of all its agents whose licenses in this state are not to remain in effect, and shall give written notice thereof to all such agents where reasonably possible.

(4) If so requested by the Commissioner, the insurer shall as to each agent whose license is to be continued as provided in this section, file with the Commissioner a statement, upon forms prescribed and furnished by the Commissioner, showing whether the agent devotes all or part of his efforts to his work as agent, and

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if part only, how much time he devotes to such work and in what other business or businesses he is engaged or employed.

Section 173. TERMINATION OF AGENCY APPOINTMENT.

(1) Subject to the agent's contract rights, if any, an insurer may terminate an agency appointment at any time. The insurer shall promptly give written notice of such termination to the Commissioner, and to the agent where reasonably possible. The Commissioner may require of the insurer reasonable proof that the insurer has given such notice to the agent, whether upon termination of the appointment by affirmative action of the insurer or by failure of the insurer to continue the appointment as provided for in section 172 (3).

(2) Upon receipt of the insurer's notice of termination of the agency appointment, the Commissioner shall terminate the license of the agent to represent the insurer.

(3) Upon termination of the appointment of an agent, or as soon thereafter as possible and immediately upon completion of the insurers investigation, the insurer shall file with the Commissioner a written statement of the facts relative to the termination and the date and cause thereof including a statement of the amount of indebtedness due the insurer or general agent.

(4) Any information, document, record or statement filed with or disclosed to the Commissioner pursuant to subsection (3) above or any information, document, record or statement supplemental thereto is an absolutely privileged communication and they, and any act or thing done by the insurer or any director, officer, employee or representative of the insurer in connection with preparing and filing such information, record, document or statement with the Commissioner shall not constitute basis of any suit or action against the insurer or any director, officer, employee or representative of the insurer or against any other person, and shall not be admissible as evidence in any court action or proceeding.

Section 174. EXCESS OR REJECTED BUSINESS. An agent may from time to time place, with an authorized insurer as to which he is not then a licensed agent, any portion of a risk which is in excess of the amount thereof acceptable to, or which has been rejected by, an insurer for which he is so licensed. The application for the insurance or annuity contract so placed must have been secured by the agent, and must be within the kinds of insurance or classifications thereof for which the agent is licensed as to the insurer which so refused or rejected such business.

Section 175. NOTICE OF CHANGE OF ADDRESS. Every agent shall promptly notify the Commissioner in writing of any change of his principal business address.

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Section 176. PAYMENT OR SHARING OF COMMISSIONS WITH UNLICENSED PERSONS PROHIBITED; PENALTY. (1) No insurer or agent shall pay, directly or indirectly, any commission or other valuable consideration to any person for services as an agent within this state unless such person holds a currently valid license as agent as to the kind or class of business involved, as required by this chapter.

(2) Any insurer or agent violating this section shall be liable for a fine in an amount of three (3) times the amount of the commission paid. Such fine shall be levied and collected by the Commissioner; upon failure to pay such fine the Commissioner may, in his discretion, revoke the license of the agent or the insurer's certificate of authority, or both.

(3) The provisions of this section shall not prevent:

(a) Payment of renewal or other deferred commissions to any person solely because such person has ceased to hold a license to act as an agent;

(b) Payment to the personal representative of a deceased agent; and

(c) Payment of any commission or any other valuable consideration by an insurer or agent to a person who has been appointed as its fulltime agent or subagent and has applied for a temporary license pursuant to section 169, pending issuance of a permanent license.

(4) No insurer or agent shall pay, directly or indirectly, any commission or other valuable consideration to any retail merchandise establishment or department store or to any of the owners, officers, directors or employees thereof for services in connection with procuring or assisting in the procurement of individual insurance on the lives of customers of such retail merchandise establishment or department store where the revolving credit facilities of such establishment or store are used by the customer for the payment of premiums on such insurance. Except that nothing contained in this act shall prohibit the payment of such commissions or other consideration where the contracting of said insurance and the financing thereof is not prohibited by the provisions of this act. This subsection shall not apply to credit life or credit disability insurance.

Section 177. REPORTING AND ACCOUNTING FOR FUNDS. (1) All premiums, return premiums or other funds belonging to others received by an agent in transactions under his license shall be trust funds so received by the licensee in a fiduciary capacity, and the licensee shall promptly account for and pay the same to the insurer, insured or other person entitled thereto.

(2) Any agent who, not being lawfully entitled thereto, diverts

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or appropriates such funds or any portion thereof to his own use, shall upon conviction be guilty of larceny by embezzlement and shall be punished as provided by law as if he had stolen such funds.

Section 178. GROUNDS FOR REFUSAL, SUSPENSION OR REVOCATION OF LICENSE. The Commissioner may, after notice and hearing as provided in section 179, refuse to renew or continue, or may suspend or revoke a license for any cause for which he could have refused to issue the license had such cause then existed and been known to the Commissioner, or if he finds that the licensee has:

- (1) Wilfully violated any provision of this code; or
- (2) Intentionally made a material misstatement in the application for license; or
- (3) Obtained or attempted to obtain the license by fraud or misrepresentation; or
- (4) Misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary; or
- (5) Otherwise demonstrated lack of trustworthiness or competence to act as an agent; or
- (6) Been guilty of fraudulent or dishonest practices; or
- (7) Materially misrepresented the terms or conditions of insurance policies or contracts; or
- (8) Made, issued, or caused to be made or issued, any statement misrepresenting or making incomplete comparisons regarding the terms or conditions of any insurance or annuity contract legally issued by any insurer, for the purpose of inducing or attempting to induce the owner of such contract to forfeit, cancel or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or
- (9) Obtained such license not for the purpose of holding himself out to the general public as an agent, but primarily for the purpose of soliciting, negotiating or procuring insurance or annuity contracts covering himself or members of his family or others, in violation of section 158 (5) of this code; or
- (10) Obtained such license not for the purpose of holding himself out to the general public as an agent, but primarily for the purpose of soliciting, negotiating or procuring insurance on the lives of customers of a retail merchandise establishment or department store which does not maintain at least one place of business in this state where the credit facilities of such retail merchandise establishment or department store are used by the customer for the payment of premiums on such insurance and where such establishment or store or the owners, officers, directors or employees thereof receive, directly or indirectly, any

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commission or other valuable consideration for the procuring of such insurance or the collecting of premiums thereon from the agent or from the insurer; except that this subsection shall not apply to credit life or credit disability insurance; or

(11) Does not possess cash and accounts receivable for insurance premiums owing the licensee in an amount equal to or in excess of the accounts payable by the licensee for insurance premiums. Such accounts receivable shall not include insurance premiums owing the licensee more than 120 days after the last day of the month in which the insurance was effective.

Section 179. PROCEDURE FOR REFUSAL, SUSPENSION OR REVOCATION OF LICENSE; APPEAL. (1) Before any license shall be suspended or revoked or the renewal thereof refused, the Commissioner shall give notice of his intention so to do by registered mail to the licensee and the insurer whom he represents, and shall set a date not less than twenty (20) days from the date of mailing such notice when the licensee and a duly authorized representative of the insurer may appear to be heard and produce evidence. Upon termination of such hearing, findings shall be reduced to writing, and upon approval by the Commissioner, shall be filed in his office and notice of the findings sent by registered mail to the licensee and the insurer concerned.

(2) Any party to such a hearing who is aggrieved by any order of the Commissioner suspending, revoking, or refusing to renew a license may appeal therefrom as provided in section 47 of this code.

Section 180. RETURN OF LICENSE. (1) All licenses issued under this chapter, though issued to a licensee, at all times are the property of the State of Alabama, and upon notice of any suspension, revocation, refusal to renew, expiration or other termination of the license, the licensee or other person having possession or custody thereof shall promptly deliver the license to the Commissioner for cancellation.

(2) As to any license lost, stolen or destroyed while in the possession of any such licensee or person, the Commissioner may accept in lieu of return of the license the affidavit of the licensee or other person responsible for or involved in the safekeeping of such license, concerning the facts of such loss, theft or destruction.

Section 181. RELICENSING AFTER REVOCATION OF LICENSE. No licensee whose license has been revoked shall be entitled to file another application for a license as an agent within one year from the effective date of such revocation, or if judicial review of such revocation is sought, within one year from date of final court order or decree affirming the revocation. Such application, when filed, may be refused by the Commissioner

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unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

Section 182. PRIVILEGED INFORMATION. All testimony, documents and other evidence required to be submitted to the Commissioner in connection with any hearing held by him under section 179, or investigation made by the Commissioner in connection therewith, or any act or thing done by the insurer or any director, officer, employee or representative of the insurer in connection with any such testimony, documents and other evidence shall be absolutely privileged and shall not be admissible in evidence in any other proceeding.

CHAPTER 9

ADJUSTERS

Section 183. ADJUSTER DEFINED. (1) An "adjuster" is a person who, for compensation as an independent contractor or as the employee of such an independent contractor, or for fee or commission, investigates and negotiates settlement of claims arising under insurance contracts on behalf of the insurer.

(2) The definition of adjuster shall not include nor require a license of the following:

(a) A licensed attorney at law who is qualified to practice law in this state.

(b) A salaried employee of an insurer.

Section 184. ADJUSTER LICENSE REQUIRED; FEE; FIRMS AND CORPORATIONS. (1) No person shall in this state act as or hold himself out to be an adjuster unless then licensed therefor under this chapter. Application for license shall be made to the Commissioner according to forms as prescribed and furnished by him.

(2) The Commissioner shall promptly issue a license to each person who has properly completed application therefor, and who is qualified for the license under this chapter.

(3) At time of application for the license, the applicant shall tender to the Commissioner the license fee specified in section 76. If license is refused, the Commissioner shall refund the license fee to the applicant or person entitled thereto.

(4) Firms and corporations, as well as individuals, may be licensed as an adjuster. Each individual associated in such firm or corporation and who exercises or proposes to exercise license powers, shall file application with the Commissioner, pay license fee and qualify as though for an individual license. The license issued to a firm or corporation shall list thereon all individuals who are thereby authorized to act as an adjuster; or in lieu thereof, the Commissioner may issue a separate license as to each such individual.

(5) The license fee above provided for is payable to the state, as provided in section 76, and no license or fee shall be paid to the county.

Section 185. QUALIFICATIONS FOR ADJUSTER LICENSE. To be licensed as an adjuster the applicant must be qualified therefor as follows:

(1) Must be an individual twenty-one (21) years of age or more.

(2) Must be a resident in and of Alabama, or resident of

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another state which will permit residents of Alabama regularly to act as adjusters in such other state.

(3) Must be a fulltime salaried employee of a licensed adjuster, or a graduate of a recognized law school, or must have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make him competent to fulfill the responsibilities of an adjuster.

(4) Must be trustworthy and of good character.

Section 186. CATASTROPHE ADJUSTMENTS. No such adjuster's license or qualifications therefor shall be required as to any adjuster who is sent into this state by and on behalf of an insurer for the purpose of investigating or making adjustment of a particular loss of unique and unusual character under an insurance policy, or for the adjustment of a series of losses resulting from a catastrophe common to all such losses and on behalf of, as authorized by, an insurer as to which he is licensed as agent under this act, an agent may from time to time act as an adjuster without a license as an adjuster; but no such agent shall act as an adjuster for an insurer with which he has a contract providing for compensation retrospectively contingent upon losses incurred under insurance sold or serviced by him.

Section 187. CONTINUANCE, EXPIRATION OF LICENSES.

(1) An adjuster license shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the Commissioner annually, on or before December 31, of the continuation fee stated in section 76, accompanied by written request for such continuation.

(2) Any license as to which the fee and request for continuation is not received by the Commissioner as required in subsection (1) above, shall be deemed to have expired as at midnight on the December 31 above mentioned. Request for continuation of any such license and/or payment of the continuation fee therefor which is received by the Commissioner after such December 31 but before the next following February 15, may be accepted and effectuated by the Commissioner, in his discretion, if accompanied by a continuation fee of one and one-half (1½) times the continuation fee otherwise required.

Section 188. OFFICE AND RECORDS. Each adjuster must have and maintain in this state an office accessible to the public, and keep therein the usual and customary records pertaining to transactions under the license. Records relative to a particular transaction shall be so retained for not less than one (1) year

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thereafter. This provision shall not be deemed to prohibit maintenance of such an office in the home of the licensee. The license of the adjuster shall show the address of his office, and the licensee shall promptly give written notice to the Commissioner of any change of such address.

Section 189. SUSPENSION, REVOCATION OR REFUSAL OF LICENSE. (1) The Commissioner may suspend for not more than twelve (12) months, or may revoke or refuse to continue, any adjuster license if, after a hearing held on not less than twenty (20) days advance notice to the licensee of such hearing and of the charges against him by registered mail as provided in section 29 (3) of this code, he finds that as to the licensee any one or more of the following causes exist:

(a) For any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner.

(b) For obtaining or attempting to obtain any such license through misrepresentation or fraud.

(c) For violation of or noncompliance with any applicable provision of this code, or for wilful violation of any lawful rule, regulation or order of the Commissioner.

(d) For misappropriation or conversion to his own use, or illegal withholding, of moneys or property belonging to policyholders, or insurers, or beneficiaries or others and received in conduct of business under the license.

(e) Conviction, by final judgment, of a felony involving moral turpitude.

(f) If in the conduct of his affairs under the license the licensee has used fraudulent or dishonest practices, or has shown himself to be incompetent or untrustworthy.

(2) The license of a firm or corporation may be suspended, revoked or refused also for any of such causes as relate to any individual designated in the license to exercise its powers.

(3) Any party to the hearing referred to in subsection (1), above, who is aggrieved by the suspension, revocation, or refusal to continue a license, may appeal from the Commissioner's order relative thereto as provided in section 47 of this code.

Section 190. RETURN OF LICENSE. (1) All licenses issued under this chapter, although issued and delivered to the licensee, shall at all times be the property of the State of Alabama. Upon any expiration, termination, suspension or revocation of the license, the licensee or other person having possession or custody of the license shall forthwith deliver it to the Commissioner either by personal delivery or by mail.

(2) As to any license lost, stolen or destroyed while in the possession of any such licensee or person, the Commissioner may

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accept in lieu of return of the license the affidavit of the licensee or other person responsible for or involved in the safekeeping of such license, concerning the facts of such loss, theft or destruction.

CHAPTER 10

UNAUTHORIZED INSURERS AND SURPLUS LINES

Section 191. REPRESENTING OR AIDING UNAUTHORIZED INSURER PROHIBITED. (1) No person shall in this state directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact such insurance in this state, in the solicitation, negotiation or effectuation of insurance or annuity contracts, forwarding of applications, delivery of policies or contracts, inspection of risks, fixing of rates, investigation or adjustment of losses, collection of premiums, or in any other manner in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state.

(2) This section shall not apply to:

(a) Acceptance of service of process by the Commissioner under section 216.

(b) Surplus lines insurance or coverage specified in section 209 and other transactions as to which certificate of authority is not required of an insurer.

(c) Adjustment of losses as authorized in section 210.

(d) Transactions for which a certificate of authority to do business is not required of an insurer under the laws of this state.

(e) Reinsurance effectuated in accordance with the insurance laws of this state.

(f) The property and operations of the ship building and/or ship repair industry engaged in interstate or foreign commerce and vessels, cargoes, watercraft, piers, wharves, graven docks, dry-docks, marine railways and building ways, commonly known as wet marine.

(3) This section shall not be deemed to render invalid, as between the parties thereto, any insurance contract entered into in violation of this section.

Section 192. REPRESENTATION OF UNAUTHORIZED INSURERS—AGENTS, ADJUSTERS—LIABILITY, PENALTY.

(1) Any person who in this state wilfully represents or aids an unauthorized insurer in violation of section 191, shall in addition to any other applicable penalty be liable for the full amount of any loss sustained by the insured under any such contract and for the amount of any premium taxes which may be payable under section 210 by reason of such contract.

(2) Any adjuster who directly or indirectly enters into an investigation or adjustment of any loss arising under a contract of insurance or annuity issued by an unauthorized insurer and covering at time of issuance a subject of insurance resident,

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located, or to be performed in this state, shall be liable for the full amount of any loss suffered by the insured under such contract. The Commissioner may, after hearing, revoke the license of such an adjuster. This subsection does not apply as to surplus lines contracts lawfully written under this chapter, or exempted under section 209, or to insurance contracts procured by the insured on his own behalf and on which the tax is paid as required by section 210, nor to transactions as to which the insurer is not required to have a certificate of authority.

Section 193. SUITS BY UNAUTHORIZED INSURERS PROHIBITED. (1) No unauthorized insurer shall institute or file, or cause to be instituted or filed, any suit, action or proceeding in this state to enforce any right, claim or demand arising out of any insurance transaction in this state, until such insurer has obtained a certificate of authority to transact such insurance in this state.

(2) This section does not apply as to:

(a) Transactions for which a certificate of authority is not required;

(b) Surplus line coverages written under this chapter; and

(c) Coverages exempted from the surplus line law under section 209.

Section 194. SURPLUS LINE INSURANCE LAW; TITLE. Sections 194 through 212 of this chapter constitute and may be referred to as "The Surplus Line Insurance Law."

Section 195. "SURPLUS LINE" INSURANCE. If certain insurance coverages cannot be procured on terms acceptable to the insureds from authorized insurers, such coverages, hereinafter designated "surplus lines," may be procured from unauthorized insurers subject to the terms and conditions of either subsection (1) or subsection (2) next following:

(1) (a) The insurance must be procured through a licensed surplus line broker.

(b) The full amount of insurance required must not be procurable, after diligent effort has been made to do so, from among the insurers authorized to transact and actually transacting that kind and class of insurance in this state, or has been procured to the full extent such insurers are willing to insure.

(c) The insurance must not be procured for the purpose of securing advantages as to a lower premium rate than would be accepted by an authorized insurer.

(d) This section, and this surplus line law, does not apply as to life insurance or disability insurance.

(2) The contracts of insurance are issued to an industrial insured, defined as an insured (a) which procures the insurance of any risk by use or services of a full time employee acting as an insurance manager or buyer or the services of a regularly and

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continuously retained, qualified insurance consultant, (b) whose aggregate annual premiums for insurance on all risks other than workmen's compensation and group insurance, total at least \$25,000; and (c) which has at least 25 employees.

Section 196. **BROKER'S REPORT.** Within thirty (30) days after the effective date of any such insurance the surplus line broker shall file a written report with the Commissioner setting forth facts from which it can be determined whether under section 195 the coverage has been lawfully placed as a surplus line. If so required by the Commissioner, the report shall be in the form of the broker's affidavit. If so required by the Commissioner, the report shall be accompanied by a written statement signed by the insured to the effect that the coverage was placed in an unauthorized insurer with the insured's knowledge and consent.

Section 197. **ENDORSEMENT OF CONTRACT.** Every insurance contract procured and delivered as a surplus line coverage pursuant to this law shall be initialed by or bear the name and license number of the surplus line broker who procured it and shall have stamped upon it the following:

"This contract is registered and delivered as a surplus line coverage under the Alabama Surplus Line Insurance Law."

Section 198. **SURPLUS LINE INSURANCE VALID.** Insurance contracts procured as "surplus line" coverages from unauthorized insurers in accordance with this law shall be fully valid and enforceable as to all parties, and shall be given acceptance and recognition in all matters and respects to the same effect and extent as like contracts issued by authorized insurers.

Section 199. **LICENSING OF SURPLUS LINE BROKER.** Any person, while licensed as a resident agent or broker of this state as to property, casualty and surety insurances, and who is deemed by the Commissioner to have had sufficient experience in the insurance business to be competent for the purpose, may be licensed as a surplus line broker for the types and kinds of insurance that he as a resident agent or broker is licensed to handle, as follows:

(1) Application to the Commissioner for the license shall be made on forms as designated and furnished by the Commissioner.

(2) License fee in the amount stated in section 76 shall be paid to the Commissioner. The license shall expire on the first day of January next after its issue.

(3) Prior to issuance of license, the applicant shall file with the

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Commissioner, and thereafter for as long as any such license remains in effect he shall keep in force and unimpaired, a bond in favor of the State of Alabama in the penal sum of five thousand dollars (\$5,000), aggregate liability, with authorized corporate sureties approved by the Commissioner. The bond shall be conditioned that the broker will conduct business under the license in accordance with the provisions of the surplus line insurance law and that he will promptly remit the taxes as provided by such law. No such bond shall be terminated unless at least thirty (30) days' prior written notice thereof is given to the broker and the Commissioner.

Section 200. BROKERS MAY ACCEPT BUSINESS FROM AGENTS. A licensed surplus line broker may accept and place surplus line business for any insurance agent or broker licensed in this State for the kind and class of insurance involved, and may compensate such agent or broker therefor. No such agent shall knowingly misrepresent to the broker any material fact involved in any such insurance, or in the eligibility thereof for placement with an unauthorized insurer.

Section 201. ELIGIBLE SURPLUS LINE INSURERS. (1) A surplus line broker shall not knowingly place surplus line insurance with an insurer that is unsound financially, or that is ineligible under this section. The broker shall ascertain the financial condition of the unauthorized insurer before placing insurance therewith.

(2) The broker shall not so insure:

(a) With any insurer which is not an authorized insurer in at least one state of the United States for the kind of insurance involved, and with capital and/or surplus or guaranteed trust fund amounting to at least five hundred thousand dollars (\$500,000.00); or

(b) With an alien insurer not authorized to transact insurance in at least one state of the United States, unless such insurer shall have an established and effective trust fund of at least five hundred thousand dollars (\$500,000.00) within the United States administered by a recognized financial institution and held for the benefit of all its policyholders or policyholders and creditors in the United States; or

(c) With a foreign or alien insurer which has transacted insurance as an authorized insurer in its state or country of domicile for less than three (3) years, or

(d) With an insurer the voting control of which is held in whole or substantial part by any government or governmental agency; or

(e) In any insurer made ineligible as a surplus line insurer by

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order of the Commissioner received by or known to the broker. The Commissioner may issue such an order of ineligibility if he finds that the insurer:

- (i) Does not meet the financial requirements of this section.
- (ii) Has without just cause refused to pay valid claims arising under its contracts in this state or has otherwise conducted its affairs in such a manner as to result in injury or loss to the insuring public of this State.

Section 202. EVIDENCE OF THE INSURANCE; CHANGES; PENALTY. (1) Upon placing a surplus line coverage, the broker shall promptly issue and deliver to the insured evidence of the insurance consisting either of the policy as issued by the insurer or, if such policy is not then available, the surplus line broker's certificate. Such a certificate shall be executed by the broker and shall show the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured, and the name and address of the insured and insurer. If the direct risk is assumed by more than one insurer, the certificate shall state the name and address and proportion of the entire direct risk assumed by each such insurer.

(2) No broker shall issue any such certificate or any cover note, or purport to insure or represent that insurance will be or has been granted by any unauthorized insurer unless he has prior written authority from the insurer for the insurance, or has received information from the insurer in the regular course of business that such insurance has been granted, or an insurance policy providing the insurance actually has been issued by the insurer and delivered to the insured.

(3) If after the issuance and delivery of any such certificate there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by an insurer as stated in the broker's original certificate, or in any other material respect as to the insurance coverage evidenced by the certificate, the broker shall promptly issue and deliver to the insured a substitute certificate accurately showing the current status of the coverage and the insurers responsible thereunder.

(4) If a policy issued by the insurer is not available upon placement of the insurance and the broker has issued and delivered his certificate as hereinabove provided, upon request therefor by the insured the broker shall as soon as reasonably possible procure from the insurer its policy evidencing such insurance and deliver such policy to the insured in replacement of the broker's certificate theretofore issued.

(5) Any surplus line broker who knowingly or negligently issues a false certificate of insurance, or who fails promptly to

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notify the insured of any material change with respect to such insurance by delivery to the insured of a substitute certificate as provided in subsection (3), shall, upon conviction, be subject to the penalties provided by section 15 of this code or to any greater applicable penalty otherwise provided by law.

Section 203. LIABILITY OF INSURER AS TO LOSSES AND UNEARNED PREMIUMS. (1) As to a surplus line risk which has been assumed by an unauthorized insurer pursuant to this surplus line insurance law, and if the premium thereon has been received by the surplus line broker who placed such insurance, in all questions thereafter arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium due to it for such coverage; and the insurer shall be liable to the insured as to losses covered by such insurance, and for unearned premiums which may become payable to the insured upon cancellation of such insurance, whether or not in fact the broker is indebted to the insurer with respect to such insurance or for any other cause.

(2) Each unauthorized insurer assuming a surplus line direct risk under this surplus line insurance law shall be deemed thereby to have subjected itself to the terms of this section.

Section 204. RECORDS OF SURPLUS LINE BROKERS. (1) Each surplus line broker shall keep in his office in this State a full and true record of each surplus line contract procured by him, including a copy of the policy, certificate, cover note, or other confirmation of insurance, and of the daily report, if any, and showing such of the following items as may be applicable:

- (a) Amount of the insurance and risks insured against;
 - (b) Gross premium charged;
 - (c) Return premium paid, if any;
 - (d) Rate of premium charged upon the several items of property;
 - (e) Effective date of the contract, and the terms thereof;
 - (f) Name and address of the insurer;
 - (g) Name and address of the insured;
 - (h) Brief general description of property insured and where located;
 - (i) Amount of tax and other sums collected from the insured;
- and

- (j) Other information as may be required by the Commissioner.

(2) The record shall at all times be open to examination by the Commissioner, and shall be kept available and open to the Commissioner for five (5) years next following the issuance of the contract.

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Section 205. ANNUAL STATEMENT. (1) Each surplus line broker shall on or before the first day of March of each year file with the Commissioner a verified statement of all surplus line insurance transacted by him during the preceding calendar year.

(2) The statement shall be on forms as prescribed and furnished by the Commissioner and shall show:

- (a) Gross amount of each kind of insurance transacted;
- (b) Aggregate gross premiums charged, exclusive of sums collected to cover state or federal taxes;
- (c) Aggregate of returned premiums and taxes paid to insureds;
- (d) Aggregate of net premiums; and
- (e) Additional information as required by the Commissioner.

Section 206. TAX ON SURPLUS LINE BROKERS. (1) On or before the first day of March each year the surplus line broker shall remit to the State Treasurer through the Commissioner, as a tax imposed for the privilege of transacting business as a surplus line broker in this state, a tax of four percent (4%) on the direct premiums, less return premiums and exclusive of sums collected to cover state or federal taxes, on surplus line insurance subject to tax transacted by him during the preceding calendar year as shown by his annual statement filed with the Commissioner.

(2) If a surplus line policy covers risks or exposures only partially in this State, the tax so payable shall be computed on the proportion of the premium which is properly allocable to the risks or exposures located in this State.

Section 207. REVOCATION OF BROKER'S LICENSE. (1) The Commissioner may revoke or suspend any surplus line broker's license:

(a) If the broker fails to file his annual statement or to remit the tax as required by law; or

(b) If the broker fails to maintain an office in this State, or to keep the records, or to allow the Commissioner to examine his records as required by law; or

(c) For any of the causes for which an agent's license may be revoked.

(2) The Commissioner may suspend or revoke the broker's license if he finds that the broker has, wilfully or without exercise of due care, placed any insurance coverage with an unauthorized insurer in violation of any of the requirements or conditions of section 195 ("surplus line" insurance).

(3) The procedures and rights provided by section 151 as for the suspension or revocation of agents' licenses shall be applicable to suspension or revocation of a surplus line broker's license.

(4) No broker whose license has been so revoked shall again be so licensed within one year thereafter, nor until any fines or

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delinquent taxes owing by him have been paid.

Section 208. ACTION AGAINST INSURER; SERVICE OF PROCESS. (1) Any unauthorized insurer issuing a policy or assuming a direct insurance risk under this surplus line law shall be deemed thereby to have appointed the Commissioner as its attorney upon whom may be served all lawful process in any action or proceeding against it in this state arising out of such insurance.

(2) Service of process upon the Commissioner as process agent of the insurer shall be made by the proper officer of Montgomery County, by serving copies in triplicate of the process upon the Commissioner or upon his assistant, deputy or other person in charge of his office. Upon receiving such service the Commissioner shall promptly forward a copy thereof by certified mail or registered mail to the person last designated to receive the same, as provided in subsection (3), below, return one copy with his admission of service, and retain one copy in the files of the department.

(3) Each such policy, or the certificate of insurance issued by the broker, shall contain a provision stating the substance of this section, and designating the person to whom the Commissioner shall mail process as provided for in subsection (2), above. The broker shall likewise file the name of such person with the Commissioner. As to the same unauthorized insurer and all insurance coverages issued or accepted by it under this surplus line law, no more than one person shall at any one time be the designee to whom copies of process against the insurer, served upon the Commissioner, shall be forwarded.

(4) Where process is served upon the Commissioner as an insurer's process agent, the insurer shall not be required to answer or plead except within thirty (30) days after the date upon which the Commissioner mailed a copy of the process served upon him as required by subsection (2), above.

(5) Process served upon the Commissioner, and copy thereof forwarded as in this section provided, shall for all purposes constitute valid and binding service thereof upon the insurer.

Section 209. EXEMPTIONS FROM SURPLUS LINE LAW. The provisions of this surplus line insurance law controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed agents or brokers of this State:

(1) Wet marine and transportation insurance;

(2) Insurance on subjects located, resident, or to be performed wholly outside of this State, or on vehicles or aircraft owned and principally garaged outside this state;

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(3) Insurance on property or operation of railroads engaged in interstate commerce;

(4) Insurance of aircraft owned or operated by manufacturers of aircraft or aircraft operated in scheduled interstate flight, or cargo of such aircraft, or against liability, other than workmen's compensation and the employer's liability, arising out of the ownership, maintenance or use of such aircraft; and

(5) The property and operations of the shipbuilding and ship repair industry engaged in interstate or foreign commerce, and vessels, cargoes, watercraft, piers, wharves, graven docks, dry-docks, marine railways and building ways, commonly known as wet marine.

Section 210. REPORT AND TAX OF INDEPENDENTLY PROCURED COVERAGES. (1) Anyone who may desire to place his insurance in a foreign insurer not authorized to do business in this state may place such insurance, and any insured who in this state procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this state so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this State, other than insurance procured through a surplus line broker pursuant to the surplus lines law of this state or exempted from such law under section 209, shall within ninety (90) days after the date such insurance was so procured, continued, or renewed, file a written report of the same with the Commissioner on forms designated by the Commissioner and furnished to such an insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as is reasonably requested by the Commissioner. If any such insurance covers also subjects of insurance resident, located or to be performed outside this state a proper pro rata portion of the entire premium payable for all such insurance shall be allocated as to the subjects of insurance resident, located or to be performed in this state, for the purposes of this section.

(2) Any insurance in an unauthorized insurer procured through negotiations or an application in whole or in part occurring or made within or from within this state, or for which premiums in whole or in part are remitted directly or indirectly from within this state, shall be deemed to be insurance procured, or continued or renewed, in this state within the intent of subsection (1) above.

(3) For the general support of the government of this state there is levied upon the obligation, chose in action, or right

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represented by the premium charged or payable for such insurance, a tax at the rate of four (4%) percent of the gross amount of such premium. The insured shall withhold the amount of the tax from the amount of premium charged by and otherwise payable to the insurer for such insurance, and within thirty (30) days after the insurance was so procured, continued or renewed, and coincidentally with the filing with the Commissioner of the report provided for in subsection (1) above, the insured shall pay the amount of the tax to the State Treasurer through the Commissioner.

(4) If the insured fails to withhold from the premium the amount of tax herein levied, the insured shall be liable for the amount thereof and shall pay the same to the Commissioner within the time stated in subsection (3) above.

(5) The tax imposed hereunder if delinquent shall bear interest at the rate of six percent (6%) per annum, compounded annually.

(6) Payment of such tax shall be enforced by the Commissioner by civil suit against any person failing to pay the tax herein provided for.

(7) A licensed adjuster may lawfully investigate and adjust any loss occurring or claim made under any such contract of insurance as to which the tax has been paid as provided in this section.

(8) This section does not apply as to life or disability insurances.

Section 211. RECORDS PRODUCED ON ORDER. Every person as to whom insurance is placed with an unauthorized insurer, upon the Commissioner's order shall produce for his examination all policies and other documents evidencing the insurance and shall disclose to the Commissioner the amount of gross premiums paid or agreed to be paid for the insurance. For each wilful refusal to obey such order, such person shall be liable to a fine of not more than five hundred dollars (\$500.00).

Section 212. PENALTIES. (a) Any person who in this state represents or aids a non-admitted insurer in *wilful* violation of the provisions of this Surplus Lines Insurance Law shall, upon conviction thereof, be guilty of a misdemeanor, and be subject to a fine not in excess of one thousand dollars (\$1,000) or imprisonment for not more than one year, or by both such fine and imprisonment in the discretion of the court.

(b) In addition to the penalties provided for in subsection (a) of this section such violator shall be liable, personally, jointly and severally with any other person or persons liable therefor for payment of taxes payable on account of such insurance.

(c) In addition to any other penalty provided for herein or otherwise provided by law, including suspension, revocation or

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refusal to renew license, any person, firm, association or corporation wilfully violating any provision of this chapter shall be liable to a penalty not exceeding \$1,000.00 for the first offense, and not exceeding \$2,000.00 for each succeeding offense.

Section 213. UNAUTHORIZED INSURERS PROCESS ACT; TITLE; INTERPRETATION. (1) Sections 213 through 219 constitute and may be cited as the Unauthorized Insurers Process Act.

(2) Such act shall be so interpreted as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 214. PURPOSE OF PROCESS ACT. The purpose of the Unauthorized Insurers Process Act is to subject certain insurers to the jurisdiction of courts of this state in suits by or on behalf of insureds or beneficiaries under insurance contracts. The legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state by insurers while not authorized to do business in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest, the legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing it exercises its power to protect its residents and to define, for the purpose of this chapter, what constitutes doing business in this state, and also exercises powers and privileges available to the state by virtue of Public Law 15, 79th Congress of the United States, chapter 20, 1st Session, S. 340, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

Section 215. ACTS CONSTITUTING COMMISSIONER AS PROCESS AGENT. Any of the following acts in this state, effected by mail or otherwise, by an unauthorized foreign or alien insurer:

(1) The issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein;

(2) The solicitation of applications for such contracts;

(3) The collection of premiums, membership fees, assessments or other considerations for such contracts; or

(4) Any other transaction of insurance business, is equivalent to and shall constitute an appointment by such insurer of the Commissioner and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on

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behalf of an insured or beneficiary, arising out of any such contract of insurance; and any such act shall be signification of the insurer's agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

Section 216. SERVICE OF PROCESS; JUDGMENT BY DEFAULT. (1) Service of process upon an insurer pursuant to section 215 shall be made by delivering to and leaving with the Commissioner or some person in apparent charge of his office, two (2) copies thereof, and the payment to him of such fees as may be prescribed by law. The Commissioner shall forthwith mail by registered mail one of the copies of the process to the defendant at its last known principal place of business, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of the service and a copy of the process are sent promptly after such service by the Commissioner by registered mail to the defendant at its last known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the certificate of the Commissioner showing a compliance herewith are filed with the clerk or register of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(2) Service of process in any such action, suit or proceeding shall in addition to the manner provided in subsection (1) above, be valid if served in the manner provided by law upon any person within this state, who, in this state on behalf of such insurer, is:

(a) Soliciting insurance, or

(b) Making, issuing or delivering any contract of insurance, or

(c) Collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process is sent within ten (10) days thereafter by registered mail by the clerk or register of the court in which the action, suit or proceeding is pending to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, are filed with the clerk or register of the court in which the action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(3) No plaintiff or complainant shall be entitled to a judgment by default, or a judgment with writ of inquiry, or a decree pro

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confesso under this section until the expiration of thirty (30) days from date of the completion of service as provided herein.

(4) Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

Section 217. DEFENSE OF ACTION BY UNAUTHORIZED INSURER. (1) Before an unauthorized insurer shall file or cause to be filed any pleading in any action or proceeding instituted against it under sections 215 and 216 of this chapter, such insurer shall:

(a) Procure a certificate of authority to transact insurance in this State, or

(b) Deposit with the clerk of the court in which such action or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action. The court may in its discretion make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to the court that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such action or proceeding, and that the insurer will pay any final judgment entered therein without requiring suit to be brought on such judgment in the state where such funds or securities are located.

(2) The court in any action or proceeding in which service is made in the manner provided in section 216 may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (1) above, and to defend such action.

(3) Nothing in subsection (1), above, is to be construed to prevent an unauthorized insurer from filing a motion to quash or to set aside the service of any process made in the manner provided in section 216, hereof on the ground either:

(a) That such unauthorized insurer has not done any of the acts enumerated in section 215, or

(b) That the person on whom service was made pursuant to subsection (2) of section 216 was not doing any of the acts therein enumerated.

Section 218. PROCESS LAW DOES NOT AUTHORIZE INSURER. Nothing in the Unauthorized Insurers Process Act shall be construed to authorize or permit the transaction of any insurance business in this state by any unauthorized insurer, nor relieve any such insurer from any penalty provided by law in the

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transaction of business in this state.

Section 219. EXEMPTIONS FROM PROCESS ACT. This Unauthorized Insurers Process Act shall not apply as to surplus line insurance lawfully effectuated under this code, nor to any action or proceeding against an unauthorized insurer arising out of:

(1) Wet marine and transportation insurance,

(2) Insurance on or with respect to subjects located, resident or to be performed wholly outside this state, or on or with respect to vehicles or aircraft owned and principally garaged outside this state,

(3) Insurance on property or operations of railroads engaged in interstate commerce, or

(4) Insurance on aircraft or cargo of such aircraft or against liability, other than employer's liability, arising out of the ownership, maintenance or use of such aircraft, where the policy or contract contains a provision designating the Commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy or contract, or where the insurer enters a general appearance in any such action or proceeding.

CHAPTER 11

MAIL ORDER INSURANCE

Section 220. UNAUTHORIZED INSURERS LAW. The Legislature declares its concern that insurers not licensed to transact the business of insurance in this state are soliciting the sale of insurance and selling insurance to residents of this state, thus presenting the Commissioner with the problem of resorting to courts of foreign jurisdictions for the purposes of enforcing the insurance laws of this state for the protection of its residents. It is the purpose of this Unauthorized Insurers Law to make it unlawful for insurers that are not licensed to transact the business of insurance in this state and to subject said insurers to the jurisdiction of the courts of this state in suits or proceedings brought by the Commissioner in transactions involving unauthorized insurers, or for the protection of insureds and claimants residing in this state and for the protection of the public. Sections 220 through 226 of this chapter constitute and may be referred to as the Unauthorized Insurers Law.

Section 221. UNLAWFUL TO TRANSACT BUSINESS WITHOUT LICENSE AND EXEMPTIONS. It shall be unlawful for any insurer to transact the business of insurance in this state or to enter into a contract of insurance in this state without first obtaining a license or certificate of authority from the Commissioner of Insurance. This Unauthorized Insurers Law shall not apply to:

(1) Contracts of insurance procured pursuant to The Surplus Line Insurance Law.

(2) Transactions in this state involving contracts of insurance lawfully entered into, written and the policy delivered outside of this state covering subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance and transactions subsequent to the making of such contract and the issuance of such policy.

(3) Reinsurance contracts.

(4) Transactions in this state involving group or blanket insurance and group annuities where the master policy or contract was lawfully issued and delivered in a state in which the insurer was authorized to transact business.

(5) Transportation insurance.

(6) Insurance on property or operation of railroads engaged in interstate commerce.

(7) Insurance of aircraft owned or operated by manufacturers of aircraft or aircraft operated in scheduled interstate flight, or cargo of such aircraft or against liability, other than workmen's

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compensation and the employer's liability, arising out of the ownership, maintenance or use of such aircraft.

(8) The property and operations of shipbuilding and ship repair industry engaged in interstate or foreign commerce and vessels, cargoes, watercraft, piers, wharves, graving docks, dry docks, marine railways and buildingways, commonly known as wet marine.

(9) Transactions in this state involving a policy or contract of insurance issued prior to sixty (60) days after the effective date of this Code.

(10) Contracts of insurance issued to an industrial insured, defined as an insured (a) which procures the insurance of any risk by use or services of a full time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained, qualified insurance consultant, (b) whose aggregate annual premiums for insurance on all risks other than workmen's compensation and group insurance, total at least \$25,000; and (c) which has at least 25 employees.

Section 222. ACTS DEEMED TO CONSTITUTE TRANSACTING BUSINESS. Any of the following occurrences or acts in this state, whether effected by mail or otherwise, by an insurer not licensed to do business in this state shall be included among those occurrences and acts deemed to constitute the transacting of the business of insurance in this state:

(1) The issuance or delivery of contracts or policies of insurance covering subjects resident, located, or expressly to be performed in this state.

(2) The solicitation of applications for such insurance.

(3) The collection of premiums, membership fees, assessments or other considerations for such insurance.

(4) The transacting of matters subsequent to the execution of such contracts and arising out of them or concerning them.

Section 223. ACTIONS AGAINST VIOLATING INSURERS. Whenever the Commissioner believes, from evidence satisfactory to him, that any insurer is violating or not complying with the provisions of this Unauthorized Insurer Law, the Commissioner may and is hereby empowered to bring an action or proceeding against such insurer in the Circuit Court of Montgomery County, Alabama to enjoin or restrain such violation or continuing noncompliance or the engaging therein or doing of any act in furtherance of such violation. The Circuit Court of Montgomery County, Alabama shall have jurisdiction of the proceedings and shall have the power and authority to make and enter such decree, order, or judgment as to such court shall be deemed proper.

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Section 224. SECRETARY OF STATE AS AGENT OF SERVICE OF PROCESS. Any insurer not qualified under the laws of this State to transact the business of insurance as evidenced by a license or certificate of authority from the Commissioner of Insurance which shall transact or attempt to transact the business of insurance in this State or which shall do or attempt to do any of the acts and occurrences set out in Section 222 shall, by the doing of such business or the performing or attempting to perform any of such acts, be deemed to have appointed the Secretary of State, or his successor or successors in office, to be the true and lawful attorney or agent of such insurer upon whom process may be served in any action accrued or accruing from the transacting of such business or the performing of such act by any such insurer or by its agent, servant, or employee. Service of such process shall be made by serving three copies of the process on the said Secretary of State, and such service shall be sufficient service upon the said insurer, provided that notice of such service and a copy of the process are forthwith sent by registered mail by the Secretary of State to the defendant at its last known address, which shall be stated in the affidavit of the plaintiff or complainant, marked "deliver to addressee only" and "return receipt requested," and provided further that such return receipt shall be received by the Secretary of State purporting to have been signed by said insurer, or the Secretary of State shall be advised by the postal authority that delivery of said registered mail was refused by said insurer; and the date on which the Secretary of State receives said return receipt, or advice by the postal authority that delivery of said registered mail was refused, shall be treated and considered as the date of service of process on said insurer. The Secretary of State shall make an affidavit as to the service of said process on him, and as to his mailing a copy of the same and notice of such service to the insurer, and as to the receipt of said return receipt, or advice of the refusal of said registered mail, and the respective dates thereof, and shall attach said affidavit, return receipt, or advice from the postal authority, to a copy of the process and shall return the same to the clerk or register who issued the same, and all of the same shall be filed in the cause by the clerk or register. The Commissioner, or his agent or attorney, desiring to obtain service upon an insurer under the provisions of this Unauthorized Insurers Law shall make and file in the cause an affidavit stating facts showing that this section is applicable, and stating the last known address of the insurer, and the clerk or register of the court in which the action is filed shall attach a copy of the affidavit to the writ or process, and a copy of the affidavit to each copy of the writ or process, and forward the original writ or process and three copies thereof to the sheriff of Montgomery County, Alabama for service on the Secretary of State, and it shall be the duty of the

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sheriff to serve the same on the Secretary of State and to make due return of such service. The court in which the cause is pending may order such continuance of the cause as may be necessary to afford the defendant or defendants reasonable opportunity to make defense. Any insurer who was licensed to transact the business of insurance in this State at the time of the doing of business or the performing of the act complained of, but which is not so licensed or authorized at the time of the pendency of a cause involving the transacting of the business of insurance or the act or occurrence complained of shall be deemed to be an unauthorized insurer within the meaning of this chapter and service of process under such circumstances may be had as herein provided.

Service of summons when obtained upon any such insurer as above provided for the service of process herein shall be deemed sufficient service of summons and process to give to the Circuit Court of Montgomery County, Alabama jurisdiction over the cause of action and over such insurer and shall warrant and authorize personal judgment and decree against such defendant or defendants in the event that the plaintiff prevails in the action. There shall be paid to the Secretary of State for services hereunder fees as may be provided for service of process on nonresidents doing business or performing work or service in this State.

Section 225. VALIDITY OF CONTRACT: COURT ACTIONS BY UNAUTHORIZED INSURERS. The failure of an insurer to obtain a license or certificate of authority shall not impair the validity of any act or contract of such insurer and shall not prevent such insurer, its assigns or successors in interest, from defending any action at law or suit in equity in any court of this State, but no insurer transacting insurance business in this State without a license or certificate of authority shall be permitted to maintain an action at law or in equity in any court of this State to enforce any right, claim or demand arising out of the transaction of such business until such company, its assigns or successors in interest, shall have (1) obtained a license or certificate of authority; or (2) deposited with the clerk of the court in which such action, suit or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action, provided, however, that the court may in its discretion and after reasonable notice to the opposing parties and upon a hearing, make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to such court that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final

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judgment which may be entered in such action, suit or proceeding. Neither shall any action at law or in equity be maintained, except upon the conditions hereinabove provided, in any court of this State by any successor or assignee or assumpitor of such unauthorized insurer which has acquired all or substantially all of the assets of such unauthorized insurer.

Section 226. PENALTIES. Any insurer which willfully violates the provisions of the Unauthorized Insurers Law shall, upon proof thereof, forfeit and pay to the State of Alabama a sum of not less than \$50 and not more than \$500 for each offense which may be recovered in a civil action brought by the Commissioner under the provision of this Unauthorized Insurers Law.

CHAPTER 12

TRADE PRACTICES AND FRAUDS

Section 227. PURPOSES OF TRADE PRACTICES LAW. (1) The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress [ch. 20, 59 U. S. Stat. at Large 33].) by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

(2) This chapter shall constitute and may be referred to as the "Trade Practices Law."

Section 228. UNFAIR METHODS, DECEPTIVE ACTS PROHIBITED. No person shall engage in this State in any trade practice which is defined in this chapter as, or determined pursuant to this chapter to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

Section 229. MISREPRESENTATION, FALSE ADVERTISING OF POLICIES. No person shall make, issue, circulate, or cause to be made, issued, or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title of any policy or class of policies misrepresenting the true nature thereof.

Section 230. FALSE INFORMATION, ADVERTISING. No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business,

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which is untrue, deceptive or misleading.

Section 231. ADVERTISING FICTITIOUS OR UNAUTHORIZED INSURER. No person shall in this state represent or advertise himself by poster, circular, letter, publication, broadcast or in any other manner as the agent of any fictitious insurer, or of any insurer not authorized to transact insurance in this state.

Section 232. "TWISTING" PROHIBITED. No person shall make or issue, or cause to be made or issued, any written or oral statement misrepresenting or making misleading incomplete comparisons as to the terms, conditions, or benefits contained in any policy for the purpose of inducing or attempting or tending to induce the policyholder to lapse, forfeit, surrender, retain, exchange or convert any insurance policy.

Section 233. FALSE FINANCIAL STATEMENTS. (1) No person shall file with any supervisory or other public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

(2) No person shall make any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omit to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(3) Any insurer wilfully making a false annual or other statement required of it under this code, and individuals knowingly making oath to and subscribing the same, shall be punished by a fine of not less than five hundred dollars (\$500.00) nor exceeding five thousand dollars (\$5,000.00).

Section 234. BOYCOTT, COERCION AND INTIMIDATION. No person shall enter into any agreement to commit or by any concerted action commit any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of or monopoly in the business of insurance.

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Section 235. DEFAMATION. No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, or of an organization proposing to become an insurer, and which is calculated to injure any person engaged or proposing to engage in the business of insurance.

Section 236. STOCK OPERATIONS, ADVISORY BOARD, AND SPECIAL CONTRACTS. (1) No person shall issue or deliver or permit its agents, officers or employees to issue or deliver agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities, or any special or advisory board contract or other contract of any kind promising returns and profits as an inducement to insurance. The Commissioner shall refuse to issue certificate of authority or license to any insurer or other person that is in violation of this section, and shall revoke the certificate of authority or license of any such violating insurer or person if such authority or license is already outstanding.

(2) No person shall issue or deliver or permit its agents, officers or employees to issue or deliver in this State any life insurance policy or contract of annuity in which are used such words as 'investment plan,' 'expansion plan,' 'profit-sharing,' 'charter plan,' 'founders plan,' 'surplus-sharing,' or similar language in such context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of life insurance to believe that he will receive or that it is probable he will receive something other than an insurance policy, or contract, or some benefit not provided in the policy or contract or some benefit not available to other persons of the same class and equal expectation of life.

(3) No insurer shall issue or deliver or permit its agents, officers or employees to issue or deliver in this State a policy of life insurance containing benefits in the form of 'coupons' or 'guaranteed annual endowment' benefits unless the premium charged for the insurance coverage and the premium charged for the 'coupons' or 'guaranteed annual endowment' benefits are prominently specified in the policy separately from each other in dollar amounts. This shall not apply to any policy in which the amount of any pure endowment or periodic benefit or benefits payable during any policy year is greater than the total annual premium for such year.

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Section 237. UNFAIR DISCRIMINATION—LIFE INSURANCE, ANNUITIES, AND DISABILITY INSURANCE. (1) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(2) No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of disability insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

Section 238. REBATES AND SPECIAL INDUCEMENTS—LIFE, ANNUITY AND DISABILITY CONTRACTS. (1) No person shall knowingly permit or offer to make or make any contract of life insurance, annuity or disability insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as an inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or directly or indirectly give, or sell, or purchase or offer or agree to give, sell, purchase, or allow as inducement to such insurance or annuity or in connection therewith, and whether or not to be specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds, or other securities, or interest present or contingent therein, of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued or to accrue thereon; or offer, promise or give anything of value whatsoever not specified in the contract.

(2) The Commissioner may, after hearing, revoke the certificate of authority of any insurer, and the licenses of any agent or other licensed representative, that has willfully violated this section.

Section 239. EXCEPTIONS TO DISCRIMINATION, REBATES PROVISION—LIFE, DISABILITY AND ANNUITY CONTRACTS. Nothing in sections 237 and 238 shall be construed as including within the definition of discrimination, rebates or special inducements any of the following practices:

(1) In the case of any contract of life insurance or annuity,

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paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance, provided that any such bonuses, or abatement of premiums is fair and equitable to policyholders and for the best interests of the insurer and its policyholders.

(2) In the case of life or disability insurance policies issued on the industrial debit or weekly premium plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(4) In the case of life insurers, allowing its bona fide employees to receive a commission or reduction on the premiums paid by them on policies on their own lives or on the lives of their children or spouse.

(5) Issuing life or disability insurance policies on a salary savings, bank draft, pre-authorized check or payroll deduction plan or other similar plan at a reduced rate reasonably related to the savings made by the use of such plan.

(6) In the case of life insurance, a written agreement between the parties for an extension of time for payment of a second or subsequent premium on the policy upon condition that the failure to pay the amount as and when so agreed shall lapse the policy; but no such agreement shall impair any right to extended or paid-up insurance which the insured may have under the policy nor any right to have the premiums or any part thereof, or the amount payable for such extension, charged against the policy under the terms of the policy. No such agreement need be attached to or made a part of the policy so affected.

(7) Paying commissions or other compensation to duly licensed agents, or allowing or returning to participating policyholders dividends or savings.

Section 240. REBATES PROHIBITED—PROPERTY, CASUALTY, SURETY INSURANCES. (1) No property, casualty or surety insurer or any employee thereof, and no broker, agent or solicitor shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy, except to the

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extent provided for in rating systems filed with the Commissioner by or on behalf of the insurer and approved by the Commissioner.

(2) No insured named in a policy, nor any employee of such insured, shall knowingly receive or accept directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium.

(3) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, brokers or solicitors, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or the unused or unabsorbed portion of premiums and premium deposits.

(4) Nothing in this section or in this Code shall be deemed to invalidate any insurance contract, or any amendment of or agreement as to such contract, or the continuance or renewal of such contract, which does not comply with chapters 12 or 14 of this Code or any other provisions of this Code, and no insured named in the policy, and no officer or employee of such insured, shall be deemed to have violated any provision of this Code by knowingly receiving or accepting such contract, amendment, agreement, continuance or renewal, Provided, that this subsection shall not be deemed to relieve any authorized insurer or licensed agent, broker, solicitor, or surplus line broker of any forfeiture or penalty otherwise applicable under this Code on account of any such violation, nor relieve any person otherwise liable therefor with respect to any tax payable on account of such insurance, nor relieve any insured named in the policy, nor any employee of such insured, who knowingly receives or accepts any rebate, discount, abatement, credit or reduction of the premium in violation of subsection (2) above, of any penalty otherwise applicable under this Code on account of any such violation.

(5) Free Insurance Prohibited. No person in this state shall advertise, offer or provide free insurance as an inducement to the purchase, or sale of real or personal property, or of services directly or indirectly connected with such real or personal property.

(a) For the purposes of this section, "free" insurance is insurance for which no identifiable and additional charge is made to the purchase of such real property or personal property or services, or insurance for which an identifiable or additional charge is made in an amount less than the cost of such insurance as to the seller or other person, other than the insurer, providing the same.

(b) This subsection does not apply to:
Insurance of loss of or damage to the real or personal property involved in any such sale or services, under a policy covering the interests therein of the seller or vendor;

Blanket disability insurance as defined in section 461 of this

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code;

Credit life insurance or credit disability insurance;

Any individual, isolated, non-recurring unadvertised transaction not in regular course of business;

Title insurance.

(c) No person shall use the word “free” to describe life or disability insurance in connection with the advertising or offering for sale of any kind of goods, merchandise, or services.

Section 241. FAVORED INSURER OR REPRESENTATIVE.

No person, firm or corporation engaged in selling real or personal property, or of lending money on the security of real or personal property and no trustee, director, officer, agent or other employee of any such person, firm or corporation, shall require or attempt or purport to require, as a condition precedent, concurrent or subsequent, to the sale or to financing the purchase of such property or to lending money upon the security of a mortgage thereon, nor as a condition precedent, concurrent or subsequent for the renewal or extension of any such loan or mortgage, or for the performance of any other act in connection therewith, that the person, firm or corporation purchasing such property or for whom such purchase is to be financed or to whom the money is to be loaned, or for whom such extension, renewal or other act is to be granted, or performed, negotiate any policy of insurance or renewal thereof covering such property, or covering any liability arising from the ownership, maintenance or use thereof, through a particular insurer, agent, solicitor or broker. This section shall not prevent the exercise by any person, firm or corporation of its right to designate reasonable and nondiscriminatory financial requirements as to insurer, the terms and provisions of the policy and the adequacy of the coverage with respect to insurance on property pledged or mortgaged to such person, firm or corporation; provided, however, that nothing herein shall be construed as to prohibit the right of any person, firm or corporation from voluntarily negotiating for or soliciting the placing of such insurance.

Section 242. INTERLOCKING OWNERSHIP, MANAGEMENT. (1) Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this code, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business.

(2) Any person otherwise qualified may be a director of two

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or more insurers which are competitors, unless the effect thereof is to lessen substantially competition between insurers generally.

Section 243. ILLEGAL DEALING IN PREMIUMS; EXCESS CHARGES FOR INSURANCE. (1) No person shall wilfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as permitted by this code.

(2) No person shall wilfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the Commissioner; or, in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus lines brokers licensed under chapter 10 of this code, of the amount of applicable State and federal taxes in addition to the premium required by the insurer. Nor shall it be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

(3) Each violation of this section shall be punishable under section 15 of this code (general penalty).

Section 244. DESIST ORDERS FOR PROHIBITED PRACTICES. (1) If the Commissioner believes that any person has been engaged or is engaging in this state in any unfair method of competition, or any unfair or deceptive act or practice expressly prohibited in this trade practices law, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten (10) days after the date of the service thereof.

(2) At the hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the Commissioner requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the Commissioner shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

(3) Provisions of chapter 2 of this code relative to the powers of the Commissioner, witnesses, evidence and hearings shall apply as to procedures under this trade practices law, except where in

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conflict with the express provisions of this trade practices law.

(4) If, after such hearing, the Commissioner finds that the method of competition or the act or practice in question is defined in this chapter and that the person complained of has engaged in such method of competition, act or practice in violation of this chapter, he shall reduce his findings to writing and issue and cause to be served upon such person an order requiring such person to cease and desist from engaging in such method of competition, act or practice.

(5) Until the expiration of the time allowed under section 47 of this code for filing a petition for review, if no such petition has been duly filed within such time, or if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the court, the Commissioner may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

(6) After the expiration of the time allowed for filing such a petition for review, if no such petition has been duly filed within such time, the Commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest so requires.

(7) A cease and desist order issued by the Commissioner under this section shall become final:

(a) Upon the expiration of the time allowed for filing of petition for review, if no such petition has been duly filed within such time; except that the Commissioner may thereafter modify or set aside his order to the extent provided in subsection (5) above; or

(b) Upon the final decision of the court if the court directs that the order of the Commissioner be affirmed or the petition for review dismissed.

(8) No order of the Commissioner pursuant to this trade practices law or order of court to enforce it shall in any way relieve or absolve any person affected by such order from any other liability, penalty or forfeiture under law.

(9) Violation of any such desist order shall be deemed to be and shall be punishable as a violation of this code.

(10) This section shall not be deemed to affect or prevent the imposition of any penalty provided by this code or by other law for violation of any other provision of this chapter, whether or not any such hearing is called or held or such desist order issued.

Section 245. SERVICE OF NOTICES AND PROCESSES.

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Statements of charges, notices, orders and other processes of the Commissioner under this trade practices law may be served by anyone duly authorized by the Commissioner, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected by such statement, notice, order or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

Section 246. APPEALS FROM CEASE AND DESIST ORDERS. Any person required by an order of the Commissioner under section 244 to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in this trade practices law may obtain a review of such order by filing an appeal therefrom in accordance with the provisions and procedures for appeals from the orders of the Commissioner in general under section 47 of this code. To the extent that the Commissioner's order is affirmed on such review, the court shall issue its own order commanding obedience to the terms of the Commissioner's order.

Section 247. PROCEDURES AS TO UNDEFINED PRACTICES. (1) Whenever the Commissioner has reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in this trade practices law, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten (10) days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section 244 of this trade practices law. The Commissioner shall, after such hearing, make a report in writing in which he shall state his findings as to the facts, and he shall serve a copy thereof upon such person.

(2) If such report charges a violation of this trade practices law and if such method of competition, act or practice has not been discontinued, the Commissioner may, through the attorney general of this state, at any time after thirty (30) days after the service of such report, cause a petition to be filed in the circuit

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court of this state within the circuit wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

(3) A transcript of the proceedings before the Commissioner, including all evidence taken and the report and findings shall be filed with such petition. If either party applies to the court for leave to adduce additional evidence and shows, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commissioner, the court may order such additional evidence to be taken before the Commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commissioner may modify his findings of fact or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(4) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the Commissioner with respect thereto is to the interest of the public and that the findings of the Commissioner are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

Section 248. APPEAL BY INTERVENOR. If the report of the Commissioner under section 247 does not charge a violation of this chapter, then any intervenor in the proceedings may, within thirty (30) days after the service of such report, cause a notice of appeal to be filed in the circuit court of Montgomery County for a review of such report. Upon such review, the court shall have authority to issue appropriate orders and decrees in connection therewith, including, if the court finds that it is to the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such report of the Commissioner, constitutes a violation of this trade practices law. Section 247 (3) shall apply as to any such review.

Section 249. MISREPRESENTATIONS IN APPLICATION FOR INSURANCE. No agent, broker, solicitor, examining physician or other person shall knowingly make a false or fraudulent statement or representation in or relative to an application for insurance. Violations of this section shall be punishable under

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section 15 of this code (general penalty).

Section 249.1. No insurer shall, without just cause, refuse to pay or settle claims arising under coverages provided by its policies in this state and with such frequency as to indicate a general business practice in this state, which general business practice is evidenced by (a) a substantial increase in the number of complaints against the insurer received by the Insurance Department, and (b) a substantial increase in the number of law suits against the insurer or its insureds by claimants and (c) other relevant evidence.

CHAPTER 13

RATES AND RATING ORGANIZATIONS

Section 250. PURPOSE OF CHAPTER; INTERPRETATION. The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate, or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this chapter. Nothing in this chapter is intended:

- (1) To prohibit or discourage reasonable competition, or
- (2) Prohibit or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect the provisions of this section.

Section 251. SHORT TITLE. This chapter may be referred to as "the rating law."

ARTICLE 1

GENERAL PROVISIONS CONCERNING
REGULATION OF RATES

Section 252. RESERVED.

Section 253. ADMINISTRATION OF LAWS RELATING TO RATES AND RATING SYSTEMS. The Commissioner of Insurance is charged with the duty of the administration of all laws now relating, or hereafter relating, to insurance rates and rating systems of all companies authorized to do business in the state of Alabama, with the exception of rates of life and health and accident business, and rates of title insurance.

Section 254. REQUIRING INSURERS TO FILE DATA AND INFORMATION. The Commissioner of Insurance shall have authority to require any insurer engaged in any of the businesses in Alabama as enumerated in this article to file with the Department of Insurance any data or information required or necessary in the performance of the duties of the Commissioner, said data or information to be filed in such manner and on such forms as may be prescribed by said Commissioner.

Section 255. RULES AND REGULATIONS. The Commissioner of Insurance shall from time to time promulgate such rules and regulations as he may deem necessary to carry out the provisions of this article; and upon request shall furnish to any

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interested party a copy of such rules and regulations.

Section 256. DISPOSITION OF COLLECTIONS. Any licenses collected from any rating organization by the Commissioner of Insurance shall be paid into the treasury of the State of Alabama.

ARTICLE 2

FIRE, ETC., INSURANCE RATES AND RATING ORGANIZATIONS

Section 257. DEFINITIONS. When used in this article, the terms defined shall have the meaning here ascribed to them unless it clearly appears from the context that some other meaning is indicated. (a) "Rate" means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium. (b) "Premium" means the consideration paid or to be paid to an insurer for the issuance and delivery of any binder or policy of insurance. (c) "Rate-making" means the examination and analysis of every factor and influence related to and bearing upon the hazard and risk made the subject of insurance the collection and collation of such factors and influences into rating systems and the application of such rating systems to individual risks. (d) "Rating system" means every schedule, class, classification, rule, guide, standard, manual, table, rating plan, policy, policy form, or compilation by whatever name described, containing the rates used by any rating organization or by any insurer, or used by any insurer or by any rating organization in determining or ascertaining a rate. (e) "Rating organization" means every person or persons, corporation, partnership, company, society, bureau or association, whether located within or outside this state, engaged in the business of rate-making for two or more insurers. (f) "Insurer" means any person or persons, corporation, association, partnership, reciprocal exchange, or company authorized by the laws of this state to transact the business of insurance in this state. (g) "Risk" means any property, real or personal, described in any policy, exposed to any hazard or peril named in such policy. (h) "Unreasonably high rates" means no rate shall be held to be unreasonably high unless (1) such rate is unreasonably high for the insurance provided and (2) a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable. (i) "Inadequate rate" means no rate shall be held to be inadequate which upon reasonable assumptions of prospective loss and expense experience will produce an underwriting profit.

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Section 258. **INSURANCE COVERED BY ARTICLE; EXCEPTIONS.** The provisions of this article shall apply to insurance against loss to property located in this state or to any valuable interest therein, by fire, lightning, windstorm, explosion, or by theft or physical damage to motor vehicles, and all other kinds of insurance which fire insurance companies are authorized to write in this state, except this article shall not apply to reinsurance, aviation insurance, and marine insurance, which term shall mean and include insurance and reinsurance against any and all kinds of loss or damage to the following subject matters of insurance and interests therein: Hulls, vessels and craft of every kind, aids to navigation, dry docks and marine railways, including marine builders' and repairers' risks, and whether complete or in process of or awaiting construction; also all marine protection and indemnity risks; also all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interest, and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation transit or transportation on or under any seas, lakes, rivers, or other waters, or in the air, or on land in connection with or incident to export, import or waterborne risks, or while being assembled, packed, crated, baled, compressed, or similarly prepared for such shipment or while awaiting the same, or during any delays, storage, transshipment or reshipment incident thereto, including the insurance of war-risks in respect to any or all of the aforesaid subject matters of insurance. The provisions of this article shall, however, apply to inland marine insurance in the manner provided in section 259 of this article.

Section 259. **INLAND MARINE INSURANCE.** The provisions of this section shall apply to all insurance, which is now or hereafter defined by statute, by ruling of the Commissioner or by lawful custom as inland marine insurance, but this article shall not apply to insurance of vessels or craft, their cargoes, marine builder's risks, marine protection and indemnity, or other risks commonly insured under marine insurance policies. (a) As to all classes of inland marine insurance for which class rates or rating plans are customarily fixed by rating organizations or associations of underwriters, rates or rating plans shall be filed by all authorized insurers writing such classes, with the Department in such manner and form as it shall direct, and also special rates fixed by any such rating organization or association shall be similarly filed. All such rates shall be reasonable, adequate and not unfairly discriminatory. Due consideration shall be given to past experience within the state and outside the state when necessary, and due

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consideration may be given to prospective loss experience within the state and without when necessary, including catastrophe hazards, to a reasonable margin for profit and contingencies, to policyholders' dividends in the case of participating insurers, and to all other relevant factors within the state and without the state when necessary. (b) Any filing made pursuant to this section shall be approved by the Commissioner unless he finds that such filing does not meet the requirements of this section. As soon as reasonably possible after the filing has been made, the Commissioner shall in writing approve or disapprove the same; provided, that any filing of class rates, special rates, or rating plans shall be deemed approved unless disapproved within thirty days. The Commissioner may investigate rates not required to be filed under the provisions of this section and may require the filing of any particular rate not otherwise required to be filed. (c) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the Department to accept such filings on its behalf. An insurer may belong or subscribe to an inland marine rating organization for inland marine insurance, and also to other rating organizations for other types of insurance.

Section 260. RATING ORGANIZATIONS TO BE LICENSED; APPLICATION AND ACCOMPANYING INFORMATION; GRANT OR DENIAL OF LICENSE; RENEWAL. No rating organization shall do business in this state unless it shall have been licensed to do so by the Commissioner. Application for such license shall be made on such forms as the Commissioner shall prepare for that purpose. Upon applying for such license, every rating organization shall file with the Department (1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation, and of its by-laws or rules governing the conduct of its business, or such of the foregoing, if any, as such rating organization may have; (2) a list of insurers who are or who have agreed to become members of or subscribers to such rating organization; (3) the name and address of a person or persons in this state upon whom notices or orders of the Commissioner affecting such rating organization may be served; and (4) such other information as the Commissioner may require. If the Commissioner finds that the applicant for license (a) has complied with the provisions of this article; (b) is equipped with an adequate staff of experts and clerks qualified in rate-making, (c) is otherwise qualified to function as a rating organization, and (d) maintains necessary service offices throughout Alabama beginning with at least three, viz: one in Mobile, Montgomery and Birmingham and he shall issue a license to such rating organization authorizing it to engage in rate-making for the kinds of insurance

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specified in such license. The service offices described in the preceding sentence shall be adequately staffed and equipped and keep on hand a complete supply of all forms, clauses, permits, rules and such other information and data as the Commissioner may prescribe, for writing fire insurance in such territory. These service offices, however, not to be required in the handling of any types of insurance serviced by special organizations. Such offices to be kept open on all customary business days. Rating organizations having a membership of less than twenty-five members shall not be required to maintain such offices unless the Department shall require same. If the Commissioner shall determine that the applicant is not entitled to a license, he shall make an order denying its application, specifying his reasons for such denial. Licenses issued pursuant to this section shall be renewed on or before July 1 of each year in the manner provided by this article. Every rating organization doing business in the state on the effective date of this article may continue to transact such business thereafter, subject to the provisions of this article, pending its application to the Department to be made within one hundred eighty (180) days after the effective date of this article, for a license to do business as required by this section. A fee of twenty-five (\$25.00) shall be paid annually to the Department for such license issued under this section.

Section 261. RATING ORGANIZATIONS TO MAKE PROVISION FOR INSURERS TO BECOME MEMBERS OR SUBSCRIBERS; DISCRIMINATION FORBIDDEN; REVIEW OF REFUSAL TO ADMIT SUBSCRIBERS. Every rating organization shall make reasonable provision in its by-laws, rules, constitution, or otherwise, to permit any insurer engaged in the kind of insurance for which rate-making is done by such rating organization, to become a member or subscriber thereof, upon application therefor by such insurer. An insurer may be a member of or a subscriber to more than one rating organization but not for the purpose of rating the same risk. No insurer shall use any rate or rating systems made by a rating organization of which it is not a member or subscriber, or by another insurer. No rating organization shall discriminate unfairly between insurers in the condition imposed for admission as subscribers, or in the services rendered to either members or subscribers. The refusal of any rating organization to admit an insurer as a subscriber shall, at the request of such insurer, be reviewed by the Commissioner at a hearing held upon at least ten days' notice to such rating organization and such insurer. If the Commissioner shall find that the insurer has been refused admittance to such rating organization as a subscriber without justification, he shall make an order directing such rating organization to admit such insurer as a subscriber. If he shall find

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that the action of the rating organization in refusing admittance to an insurer as a subscriber is justified, he shall make an order affirming its action.

Section 262. RATES TO BE REASONABLE, ADEQUATE AND FAIR; BASIS THEREOF. Every rating organization, and every insurer which makes its own rates, shall make rates that are not unreasonably high or inadequate for the safety and soundness of the insurer, and which do not unfairly discriminate between risks in this state involving essentially the same hazards, and shall, in rate-making, and in making rating systems: (a) Adopt basis classifications, which shall be used as the basis of all manual, minimum, class, schedule or experience rates; (b) adopt reasonable standards for construction, for protective facilities, and for other conditions that materially affect the hazard or peril, which shall be applied in the determination or fixing of rates; (c) give consideration to past experience within the state and without the state when necessary, and due consideration may be given to prospective loss experience within the state and without the state when necessary, over such period of years as appears to be fairly representative of the frequency of the occurrence of the particular hazard or peril, including where pertinent, the conflagration and catastrophe hazards, if any; (d) give consideration to all factors reasonably related to the kind of insurance involved; including a reasonable profit for the insurer, and, in the case of participating insurers, to policyholders dividends. In the case of fire insurance, consideration shall be given to the latest available experience of the fire insurance business, other than fire insurance covering motor vehicles, during a period of not less than five years preceding the year in which rates are made or revised.

Section 263. INSURERS REQUIRED TO FILE ANNUAL STATISTICAL REPORTS; IMPROPER DIVULGING OF CONTENTS A MISDEMEANOR. Every insurer shall file annually on or before July 1 with the rating organization of which it is a member or subscriber or with such other common agency representing a group of insurers as the Department may approve, and with the Department, a statistical report showing a classification schedule of its premiums and its losses on all kinds of insurance to which this article is applicable, together with such other information as the Department may deem necessary for the proper determination of the reasonableness and adequacy of rates. Such statistical report filed with the rating organization may be consolidated and filed by such common agency. Such data shall be kept and reports made in such manner and on such forms as may be prescribed by the Commissioner. All such annual filings with the Department shall be kept under lock and key, and any official or employee of the

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Department who shall divulge the contents or permit the examination thereof, except for the purpose of properly administering the provisions of this article, or upon the order of court, shall be guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars (\$50.00), and shall thereafter be ineligible to be an employee or agent of said Department. A mutual fire insurance company or reciprocal fire exchange which confines its business chiefly to the insurance of sprinklered risks, and which pays no commission or brokerage for the acquisition of business, shall be deemed to comply with the provisions of this section if it files its statistical reports of premium deposits and losses on the basis of comprehensive coverage.

Section 264. INSURERS TO FILE COPIES OF RATING SYSTEMS WITH DEPARTMENT. Beginning with the one hundred eightieth day after this article takes effect, every insurer shall, before using or applying any rate to any kind of insurance, coming within the scope of this article, file with the Department a copy of the rating system upon which such rate is based, or by which such rate is fixed or determined. The filing herein required may be made on behalf of such insurer by a rating organization of which such insurer is a member or subscriber. The provisions of this section shall be deemed to have been complied with by any insurer which had, before the effective date of this article been a member or subscriber of a rating organization doing business in the state. From and after the date of the filing of such rating systems, every insurer shall charge and receive rates fixed or determined in strict conformity therewith, except as in this article otherwise expressly provided.

Section 265. ACTION OF COMMISSIONER ON RATING SYSTEMS FILED OR FORMERLY APPROVED. If, after examination thereof, the Commissioner shall find that such rating systems filed by or on behalf of an insurer provide for, result in, or produce rates that are unreasonably high or excessive, or are not adequate for the safeness and soundness of the insurer, or are unfairly discriminatory between risks in this state involving essentially the same hazards, he shall issue an order to such insurer, or to the rating organization of which such insurer is a member or subscriber, directing that such rating systems be altered in the manner and to the extent stated in such order, to produce rates that are reasonable and adequate, and not unfairly discriminatory. If the Commissioner shall find that such rating systems provide for, result in, or produce rates that are not unreasonably high, and are not inadequate for the safeness and soundness of the insurer, and are not unfairly discriminatory between risks in this

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state involving essentially the same hazards, he shall approve such rating systems, and such approval shall continue in effect until he shall, by order, direct that such rating systems be changed or modified as in this section provided. As soon as reasonably possible after the filing has been made the Commissioner shall, in writing, approve or disapprove the same, provided, that unless disapproved within 30 days such rating systems shall be deemed to be approved by him. Whenever the Commissioner shall find that rating systems theretofore approved by him, or which pursuant to Section 274 are effective without approval, provide for, result in, or produce rates which are unreasonable, or inadequate, or which discriminate unfairly between risks in this state involving essentially the same hazards, he shall issue an order to all insurers employing such rating systems, or to the rating organizations of which such insurers are members or subscribers, directing that such rating systems be altered or revised in the manner and to the extent stated in such order to provide for, result in, or produce rates which are reasonable, adequate, and do not discriminate unfairly between risks in this state involving essentially the same hazards. Rating systems filed with the Department on or before the effective date of this article pursuant to the provisions of this section, shall be deemed to have been approved by the Commissioner, such approval to continue in effect until the Commissioner shall by order, direct that such rating system be altered or modified as in this section provided. Changes in rates resulting from an order of the Commissioner directing or approving alterations or revisions in rating systems shall become effective following the date of such order as fixed by the Commissioner and shall be applied to policies written on or after such effective date. Under such rules and regulations as he shall adopt the Commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate or unfairly discriminatory.

Section 266. REQUIRED SURVEY OF RISKS RATED UPON SCHEDULE. Every rating organization and every insurer which does its own rate-making shall keep in its office a written survey of every risk rated upon schedule after inspection, and shall upon request furnish a copy of such survey to the interested insured or his duly authorized representative.

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Section 267. HEARING ON APPLICATION TO RATING ORGANIZATION OR INSURER TO REDUCE RATE; APPLICATION TO DEPARTMENT. Every rating organization, and every insurer which does its own rate-making, shall provide reasonable means within this state, to be approved by the Department, whereby any person or persons affected by rate made by it, may be heard on an application to reduce such rate. If such rating organization or such insurer shall refuse to reduce such rate, the person or persons affected thereby may make a like application to the Commissioner within thirty days after receipt of notice in writing that the application for reduction of rate has been denied by such rating organization or by such insurer. If, upon the expiration of twenty days after application for the reduction of a rate, such rating organization or such insurer fails to grant or reject the application, the person or persons affected may make the application to the Commissioner in the same manner as if the application had been rejected by such rating organization or by such insurer. The Commissioner shall fix a time and place for hearing on such application, upon not less than ten days' notice by registered mail, for the applicant and such rating organization or such insurer to be heard. The Commissioner shall make such order as he shall deem just and lawful upon the evidence placed before him at such hearing.

Section 268. APPLICATION BY INSURER TO COMMISSIONER FOR UNIFORM PERCENTAGE INCREASE OR DECREASE. Any insurer may apply to the Commissioner for permission to effect a uniform percentage increase or decrease in the rates applied to all risks of a particular class in the state in a particular kind or kinds of insurance. Upon the filing of such application, the Commissioner shall give notice thereof by registered mail to the rating organization, if any, of which such insurer is a member or subscriber, and shall fix a time and place for a hearing upon the merits of such application. At such hearing, such insurer and such rating organization, or their representatives, shall be entitled to be heard and to present evidence in support of or against such application. The Commissioner shall, upon the conclusion of such hearing, make such order as he shall deem consistent with the establishment and maintenance of reasonable, adequate, and nondiscriminatory rates. If the application is granted such increase or decrease shall remain in force unless withdrawn by the insurer with the consent of or by order of the Commissioner. If the Commissioner shall find that such increase or decrease will result in rates that are unreasonable, inadequate, or unfairly discriminatory, he shall make an order denying the application. Notwithstanding the foregoing, but subject to the

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provisions of section 265 of this act, as amended, to the extent not inconsistent therewith, when a filing of adjustments of rates for existing rating systems is made under this section and does not involve a change in the relationship between such rates and the expense portion thereof or does not involve a change of the element of expenses which are paid as a percentage of premiums, and does not involve a change in rate relativities among such classifications on any basis other than loss experience, such filing shall become effective upon the date or dates specified in the filing and shall be deemed to meet the requirements of this act. A rate in excess of that promulgated by such rating organization may be charged on any specific risk provided such higher rate is charged with the knowledge and written consent of both the insured and the Commissioner.

Section 269 — Reserved.

Section 270. INSURERS ENGAGED IN INSURING SPECIAL TYPES OR CLASSES OF RISKS. Any insurer individually or as a member of a pool, group or association engaged in the business of insuring special types or classes of risks in connection with a particular inspection or engineering service or with respect to which a set of standards has been maintained to the satisfaction of the Commissioner may submit its loss experience data, forms and proposed rates and negotiate with the Commissioner for his approval of such rates and forms either directly in its own behalf or through a unified facility of the group created, licensed as a rating organization, and maintained entirely or in part for such purpose. In evaluating the forms and rates of such an insurer or pool or association of insurers, the Commissioner shall act with due regard for the previous record of such insurer or group of insurers, and with due appreciation of previous and prospective loss trends, both within and outside the state, and to any other factors reasonably related to the classes or types of insurance written by such insurer or group of insurers. If approved, such forms and rates shall be filed with the rating organization, licensed to make rates on such types or classes of risks, of which such insurer is a member or subscriber. Nothing contained in this section shall be construed as exempting any insurer, pool, group or association of insurers from all other provisions of this article.

Section 271. FACTORS AND MATTERS CONSIDERED BY COMMISSIONER IN DETERMINING VALIDITY OF RATES. In every case where, pursuant to the provisions of this article, the Commissioner is authorized or required to determine whether rates are reasonable and adequate, and not unfairly discriminatory, he shall consider: the factors applied by insurers and rating

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organizations generally in determining the bases for rates; the financial condition of the insurer; the method of operation of such insurer; the past loss experience of the insurer within the state and without the state when necessary and may give consideration to prospective loss experience within the state and without the state when necessary, over such period of years as shall appear to be fairly representative of the frequency of the occurrence of the particular hazard or peril, including, where pertinent, the conflagration and catastrophe hazards, if any; all factors reasonably related to the kind of insurance involved; a reasonable profit for the insurer, and, in the case of participating insurers, to policyholders' dividends. In the case of fire insurance, he shall consider the latest available experience of the fire insurance business, other than fire insurance covering motor vehicles, during a period of not less than five years preceding the year in which such rates are reviewed by him.

Section 272. EXAMINATION OF RATING ORGANIZATIONS OR INSURERS MAKING OWN RATES. The Commissioner may, whenever he deems it expedient, but at least once in every five years, make or cause to be made an examination of the business, affairs, and method of operation of every rating organization doing business in this state and a like examination of an insurer making its own rates. The cost of such examination shall be fixed in the same manner as provided for in this code, and shall be paid by the rating organization or insurer making its own rates examined. The Commissioner may, in his discretion, waive such examination upon proof that such rating organization has, within a reasonable recent period, been examined by a public official or department of another state, pursuant to the laws of such state, and upon the filing with the Department of a certified copy of the report of such examination. The officers, managers, agents, and employees of such rating organization or insurer making its own rates shall exhibit all its books, records, documents, or agreements governing its method of operation, its rating systems, and its accounts for the purpose of such examination. The Commissioner or his representative may, for the purpose of facilitating and furthering such examination, examine, under oath, the officers, managers, agents, and employees of such rating organization or insurer making its own rates.

Section 273. NOTICE OF WITHDRAWAL OR EXPULSION OF MEMBER OR SUBSCRIBER; READMISSION UPON PAYMENT OF DELINQUENT CHARGES; EXPULSION OR WITHDRAWAL PRECLUDES USE OF RATE OR RATING SYSTEM. Every rating organization shall notify the Department within 10 days upon the withdrawal or expulsion therefrom of any member

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or subscriber. Should a rating organization expel or otherwise exclude a subscriber for the refusal or failure of such subscriber to pay such rating organization the subscribership fee agreed upon, such rating organization shall readmit such subscriber upon payment to it of any delinquent charges. No insurer shall, after expulsion or withdrawal from a rating organization, use any rate or rating system made by such rating organization during the period that such expulsion or withdrawal continues.

Section 274. ALTERING, SUPPLEMENTING OR AMENDING RATING SYSTEMS. A rating organization, or any insurer making its own rates, may, with the approval of the Commissioner, from time to time, alter, supplement, or amend its rating systems, or any part thereof, by filing with the Department copies of such alterations, supplements, or amendments together with a statement of the reason or reasons for such alteration, supplement, or amendment. If such alteration, supplement or amendment shall have the effect of increasing or decreasing rates, the Commissioner shall determine whether the rates as altered thereby are reasonable, adequate, and not unfairly discriminatory. If the Commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate, or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate, or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment. Notwithstanding the foregoing, but subject to the provisions of section 265 of this article, to the extent not inconsistent herewith, when a filing of adjustments of rates for existing classifications of risks does not involve a change in the relationship between such rates and the expense portion thereof or does not involve a change of the element of expenses which are paid as a percentage of premiums or does not involve a change in rate relativities among such classifications on any basis other than loss experience, such filing shall become effective upon the date or dates specified in the filing and shall be deemed to meet the requirements of this act.

Section 275. PREMIUMS MUST BE IN ACCORD WITH RATING SYSTEMS ON FILE WITH AND APPROVED BY COMMISSIONER; REBATES, ETC., PROHIBITED. No insurer or employee thereof, and no broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the respective rating systems on file with and approved by the Commissioner. No insurer, or employee thereof, and no broker or agent shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to

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insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent that such rebate, discount, abatement, credit, reduction, favor, advantage or consideration may be provided for in rating systems filed by or on behalf of such insurer and approved by the Commissioner. No insured named in a policy of insurance nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents and to brokers duly licensed by this state nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits.

Section 276. FALSE OR MISLEADING INFORMATION. No insurer, and no officer, agent, or employee thereof, shall give false or misleading information to any rating organization of which it is a member or subscriber, or to the Department, which will in any manner affect the proper determination of reasonable, adequate, and nondiscriminatory rates.

Section 277. VIOLATION RENDERS LICENSE OR CERTIFICATE OF AUTHORITY SUBJECT TO SUSPENSION; AUTOMATIC SUSPENSION OF LICENSE. Any rating organization which violates any provisions of this article shall be subject to suspension of its license, and any insurer making its own rates which violates any provision of this article shall be subject to suspension of its certificate of authority to do business in this state. Failure of a rating organization, or insurer making its own rates, to comply with the provisions of any order of the Commissioner within 30 days after such order, or any extension thereof as the Commissioner may, in his discretion, grant, shall automatically suspend the license of such rating organization or insurer.

Section 278. ORDER OF COMMISSIONER REVOKING OR SUSPENDING LICENSE. If the Commissioner shall find, after due notice and hearing that any rating organization, insurer, officer, agent or representative thereof has wilfully violated any of the provisions of this article, he may issue an order revoking or

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suspending the license of any such insurer, agent, broker or representative thereof.

Section 279. VIOLATION A MISDEMEANOR. Any rating organization, any insurer, officer, agent or representative thereof failing to comply with, or otherwise wilfully violating, any of the provisions of this article shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

Section 280. REASONABLE NOTICE OF ORDER REQUIRED; HEARING UPON REQUEST. The Commissioner shall not make any order under the provisions of this article without giving every rating organization and insurer who may be affected thereby reasonable notice and a hearing, if hearing is requested. All hearings provided for in this article shall be held at such time and place as shall be designated in a notice which shall be given in writing by registered mail to such rating organization and insurer or the officers and agents and representatives thereof which may be affected thereby, at least thirty (30) days before the date designated therein, which notice shall state the subject of the order. At the conclusion of such hearing, or within thirty (30) days thereafter the Commissioner shall make such order or orders as he may deem necessary in accordance with his findings.

Section 281. REVIEW OF ORDER OF COMMISSIONER. Any final order made by the Commissioner as provided by law may, upon appropriate petition filed by the attorney general on behalf of the state or by any interested party, at any time within thirty days from the date of said order, be reviewed by the circuit court of Montgomery County, Alabama, sitting in equity, on a writ of certiorari. Upon the filing of such petition, the petitioner shall file with the register of said court a bond with good and sufficient sureties to be approved by the register, conditioned to pay all costs which may be assessed against the petitioner in such proceedings. The circuit court of Montgomery County, Alabama, sitting in equity, or the Court of Civil Appeals of Alabama, on appeal to it, may affirm said order or modify or repeal the same in whole or in part. From the judgment of the circuit court of Montgomery County, Alabama, sitting in equity, either the state or the interested party taking the appeal may appeal directly to the Court of Civil Appeals of Alabama within thirty days from the rendition of the judgment; the interested party so appealing to the Court of Civil Appeals shall give security for costs of such appeal to be approved by the register of said court.

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Section 282. EXEMPTIONS FROM ARTICLE. Nothing in this article shall apply to any town or county farmers mutual fire insurance association restricting their operations to not more than one county, or to domestic insurance companies, associations, orders or fraternal benefit societies now doing business in this state on the assessment plan.

Section 283. DELEGATION OF AUTHORITY BY COMMISSIONER. Whenever, under the provisions of this article, the Commissioner is authorized or required to do any act, he may designate an assistant, or any salaried employee of the Department of the state of Alabama, to act in his place and stead, who shall report to the Commissioner and advise the Commissioner on the nature of the matter delegated. The Commissioner shall make such order, based upon such advice and report, as he shall, in his discretion, determine, and such order shall have the same force and effect as if the Commissioner had acted thereon personally.

ARTICLE 3

RATES AND RATING ORGANIZATIONS FOR CASUALTY AND SURETY INSURANCE

Section 284. DEFINITIONS. When used in this article, the terms defined shall have the meaning here ascribed to them unless it clearly appears from the context that some other meaning is indicated. (a) "Rate" means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium. (b) "Premium" means the consideration paid or to be paid to an insurer for the issuance and delivery of any binder or policy of insurance. (c) "Rate-making" means the examination and analysis of every factor and influence related to and bearing upon the hazard and risk made the subject of insurance; the collection and collation of such factors and influences into rating plans; systems; and the application of such rating systems to individual risks. (d) "Rating plan" means every schedule, class, classification, rule, guide, standard, manual, table, rating plan, policy, policy form, or compilation by whatever name described, containing the rates used by any rating organization or by any insurer, or used by any insurer or by any rating organization in determining and ascertaining a rate. (e) "Rating organization" means every person or persons, corporation, partnership, company, society, bureau or association, whether located within or outside this state, engaged in the business of rate-making for two or more insurers. (f) "Insurer" means any person or persons,

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corporation, association, partnership, reciprocal exchange, or company authorized by the laws of this state to transact the business of insurance in this state. (g) "Casualty insurance" as used herein is to be construed in its generally accepted trade sense. (h) "Unreasonably high rate" means no rate shall be held to be unreasonably high unless (1) such rate is unreasonably high for the insurance provided and (2) a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable. (i) "Inadequate rate" means no rate shall be held to be inadequate which upon reasonable assumptions of prospective loss and expense experience will produce an underwriting profit.

Subsections (j) and (k), shall not apply, as defined, to workmen's compensation and employers liability insurance. Provided however, that the rates for workmen's compensation and employers liability insurance shall not be unreasonably high or inadequate.

Section 285. INSURANCE AND BONDS COVERED BY ARTICLE. The provisions of this article shall apply to all lines of casualty insurance, including workmen's compensation, employer's liability, fidelity, surety, and guaranty bonds, and all other kinds of insurance which casualty and surety insurance companies are authorized to write in this state, except reinsurance, aviation insurance, and accident and health insurance.

Section 286. RATING ORGANIZATIONS TO BE LICENSED; APPLICATION AND ACCOMPANYING INFORMATION; GRANT OR DENIAL OF LICENSE; RENEWAL. No rating organization shall do business in this state until it shall have been licensed to do so by the Commissioner. Application for such license shall be made on such forms as the Commissioner shall prepare for that purpose. Upon applying for such license, every rating organization shall file with the Department (1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation, and of its by-laws or rules governing the conduct of its business, or such of the foregoing, if any, as such rating organization may have; (2) a list of insurers who are or who have agreed to become members of or subscribers to such rating organization; (3) the name and address of a person or persons in this state upon whom notices or orders of the Commissioner affecting such rating organization may be served; and (4) such other information as the Commissioner may require. If the Commissioner finds that the applicant for license (a) has complied with the provisions of this article; (b) is equipped with an adequate staff of experts and clerks qualified in rate-making; and (c) is otherwise qualified to function as a rating organization,

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he shall issue a license to such rating organization authorizing it to engage in rate-making for the kinds of insurance or subdivision thereof specified in such license. If the Commissioner shall determine that the applicant is not entitled to a license, he shall make an order denying its application, specifying his reasons for such denial. Licenses issued pursuant to this section shall be renewed on or before July 1 of each year in the manner provided by this article. Every rating organization doing business in this state on the effective date of this article, may continue to transact such business thereafter, subject to the provisions of this article, pending its application to the Department, to be made within 180 days after the effective date of this article, for a license to do business as required by this section. A fee of twenty-five dollars (\$25.00) shall be paid annually to the Department for such license issued under this section.

Section 287. RATING ORGANIZATIONS TO MAKE PROVISION FOR INSURERS TO BECOME MEMBERS OR SUBSCRIBERS; DISCRIMINATION FORBIDDEN; REVIEW OF REFUSAL TO ADMIT SUBSCRIBER. Every rating organization shall make reasonable provision in its by-laws, rules, constitution, or otherwise, to permit any insurer engaged in the kind of insurance for which rate-making is done by such rating organization, to become a member or subscriber to its rating services for any kind of insurance or subdivisions thereof, upon application therefor by such insurer. No rating organization shall discriminate unfairly between insurers in the condition imposed for admission as subscribers, or in the services rendered to either members or subscribers. No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers. The refusal of any rating organization to admit an insurer as a subscriber shall, at the request of such insurer, be reviewed by the Commissioner at a hearing held upon at least ten days' notice to such rating organization and such insurer. If the Commissioner shall find that the insurer has been refused admittance to such rating organization as a subscriber without justification, he shall make an order directing such rating organization to admit such insurer as a subscriber. If he shall find that the action of the rating organization in refusing admittance to an insurer as a subscriber is justified, he shall make an order affirming its action.

Section 288. RATES TO BE REASONABLE, ADEQUATE AND FAIR; BASIS THEREOF. Every rating organization, and every insurer which makes its own rates, shall make rates that are not unreasonably high or inadequate for the safety and soundness

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of the insurer, and which do not unfairly discriminate between risks in this state, and shall, in rate-making, and in making rating plans (a) adopt basis classifications, which shall be used as the basis of all manual, minimum, class, schedule or experience rates; (b) give consideration to past experience within the state and without the state when necessary, and due consideration may be given to prospective loss experience within the state and without the state when necessary, over such period of years as appears to be fairly representative of the frequency of the occurrence of the particular risk; (c) give consideration to all factors reasonably related to the kind of insurance involved; including a reasonable profit for the insurer, and, in the case of participating insurers, to policyholders' dividends. The systems of expense provisions included in the rates for use by insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or any subdivision or combination thereof for which the Commissioner approves the application of separate expense provisions.

Section 289. INSURERS REQUIRED TO FILE ANNUAL STATISTICAL REPORTS; IMPROPER DIVULGING OF CONTENTS A MISDEMEANOR. Every insurer shall file annually on or before July 1 with the rating organization of which it is a member or subscriber or with such other common agency representing a group of insurers as the Department may approve, and with the Department, a statistical report showing its premiums and its losses on all kinds of insurance to which this article is applicable, together with such other information as the Department may deem necessary for the proper determination of the reasonableness and adequacy of rates. Such statistical report filed with the rating organization may be consolidated and filed by such common agency. Such data shall be kept and reports made in such manner and on such forms as may be prescribed by the Commissioner. All such annual filings with the Department shall be kept under lock and key, and any official or employee of the Department who shall divulge the contents or permit the examination thereof, except for the purpose of properly administering the provisions of this article, or upon the order of court, shall be guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars (\$50.00) and shall thereafter be ineligible to be an employee or agent of said Department. Reasonable rules and plans may be promulgated by the Commissioner after consultation with all insurers and rating organizations affected thereby, for the interchange of loss experience necessary for the application of rating plans. In order to further uniform administration of rating laws, the Commissioner and every insurer and rating organization

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may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate-making and the application of rating systems. The Commissioner may make reasonable rules and regulations necessary to effect the purposes of this article.

Section 290. INSURERS TO FILE COPIES OF RATING PLANS WITH DEPARTMENT. Beginning with the 180th day after this article takes effect, every insurer shall, before using or applying any rate to any kind of insurance, coming within the scope of this article, file with the Department a copy of the rating plan upon which such rate is based, or by which such rate is fixed or determined. The filing herein required may be made on behalf of such insurer by a rating organization of which such insurer is a member or subscriber. From and after the date of the filing of such rating plans, every insurer shall charge and receive rates fixed or determined in strict conformity therewith, except as in this article otherwise expressly provided.

Section 291. ACTION OF COMMISSIONER UPON RATING PLANS FILED OR FORMERLY APPROVED. If, after examination thereof, the Commissioner shall find that such rating plans filed by or on behalf of an insurer provide for, result in, or produce rates that are unreasonably high or excessive, or are not adequate for the safeness and soundness of the insurer, or are unfairly discriminatory between risks in this state involving essentially the same risks, he shall issue an order to such insurer, or to the rating organization of which such insurer is a member or subscriber, directing that such rating plans be altered in the manner and to the extent stated in such order, to produce rates that are reasonable and adequate, and not unfairly discriminatory. If the Commissioner shall find that such rating plans provide for, result in, or produce rates that are not unreasonably high, and are not inadequate for the safeness and soundness of the insurer, and are not unfairly discriminatory between risks in this state, he shall approve such rating plans and rates, and such approval shall continue in effect until he shall, by order, direct that such rating plans and rates be changed or modified as in this section provided. As soon as reasonably possible after the filing has been made the Commissioner shall, in writing, approve or disapprove the same, provided, that unless disapproved within 30 days such rating plans and rates shall be deemed to be approved by him. Whenever the Commissioner shall find that rating plans theretofore approved by him or which pursuant to Section 299 are effective without approval, provide for, result in, or produce rates which are unreasonable, or inadequate, or which discriminate unfairly between risks in this state, he shall issue an order to all insurers

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employing such rating plans, or to the rating organizations of which such insurers are members or subscribers, directing that such rating plans be altered or revised in the manner and to the extent stated in such order to provide for, result in, or produce rates which are reasonable, adequate, and do not discriminate unfairly between risks in this state. Rating plans and rates filed with the Department on or before the effective date of this article pursuant to the provisions of this section, shall be deemed to have been approved by the Department, such approval to continue in effect until the Commissioner shall by order direct that such rating system be altered or modified as in this section provided. Changes in rates resulting from an order of the Department directing or approving alterations or revisions in rating plans shall become effective following the date of such order as fixed by the Commissioner and shall be applied to policies written on or after such effective date. Under such rules and regulations as he shall adopt the Commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate or unfairly discriminatory.

Section 292. APPEAL FROM DECISION OF RATING ORGANIZATION. Any member of or subscriber to a rating organization may appeal to the Commissioner from the decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the Commissioner shall, after a hearing held on not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the decision of such rating organization or directing it to give further consideration to such proposal. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in this article, from the system of expense provisions included in a filing made by the rating organization, the Commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant.

Section 293. FURNISHING INFORMATION AS TO RATES. Every rating organization and every insurer which makes its own rates shall, after receiving written request therefor from the

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Department, furnish to any person affected by a rate made by it, or to the authorized representative of such person, all pertinent information as to such rate.

Section 294. HEARING ON APPLICATION TO RATING ORGANIZATION OR INSURER TO REDUCE RATE; APPLICATION TO DEPARTMENT. Every rating organization, and every insurer which does its own rate-making, shall provide reasonable means within this state, to be approved by the Department, whereby any person or persons affected by a rate made by it, may be heard on a written application to reduce such rate. If such rating organization or such insurer shall refuse to reduce such rate, the person or persons affected thereby may make a like application to the Commissioner within thirty days after receipt of notice in writing that the application for reduction of rate has been denied by such rating organization or by such insurer. If, upon the expiration of twenty days after application for the reduction of a rate, such rating organization or such insurer fails to grant or reject the application, the person or persons affected may make the application to the Commissioner in the same manner as if the application had been rejected by such rating organization or by such insurer. The Commissioner shall fix a time and place for hearing on such application, upon not less than ten days' notice by registered mail, for the applicant and such rating organization or such insurer to be heard. The Commissioner shall make such order as he shall deem just and lawful upon the evidence placed before him at such hearing.

Section 295. APPLICATION BY INSURER TO COMMISSIONER FOR UNIFORM PERCENTAGE INCREASE OR DECREASE. (a) Any insurer may apply to the Commissioner for permission to effect a uniform percentage increase or decrease in the rates applied to all kinds of a particular class in the state in a particular kind or kinds of insurance. Upon the filing of such application, the Commissioner shall give notice thereof by registered or certified mail to the rating organization, if any, of which such insurer is a member or subscriber, and shall fix a time and place for a hearing upon the merits of such application. At such hearing, such insurer and such rating organization, or their representatives, shall be entitled to be heard and to present evidence in support of or against such application. The Commissioner shall, upon the conclusion of such hearing, make such order as he shall deem consistent with the establishment and maintenance of reasonable, adequate, and nondiscriminatory rates. If the application is granted, such increase or decrease shall remain in force unless withdrawn by the insurer with the consent of or by order of the Commissioner. If the Commissioner shall find that such increase or decrease will result in rates that are unreasonable,

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inadequate, or unfairly discriminatory, he shall make an order denying the application.

(b) Notwithstanding the foregoing, but subject to the provisions of Section 291 of this Article, to the extent not inconsistent herewith, when a filing of adjustments of rates for existing classifications of risks is made under this section and does not involve a change in the relationship between such rates and the expense portion thereof, or does not involve a change of the element of expenses which are paid as percentage of premiums, and does not involve a change in rate relativities among such classifications on any basis other than loss experience, such filings shall become effective upon the date or dates specified in the filing and shall be deemed to meet the requirements of this Article.

(c) A rate in excess of that promulgated by such rating organization may be charged on any specific risk provided such higher rate is charged with the knowledge and written consent of both the insured and the Commissioner.

(d) Subsection (b) of this Section shall not apply to workmen's compensation or employers liability insurance.

Section 296. FACTORS AND STANDARDS TO BE CONSIDERED BY COMMISSIONER IN DETERMINING VALIDITY OF RATES. In every case where, pursuant to the provisions of the article, the Commissioner is authorized or required to determine whether rates are reasonable and adequate, and not unfairly discriminatory, he shall consider the factors and standards set forth in section 288 of this article.

Section 297. EXAMINATION OF RATING ORGANIZATIONS OR INSURERS MAKING OWN RATES. The Commissioner may, whenever he deems it expedient, but at least once in every five years, make or cause to be made an examination of the business, affairs, and method of operation of each rating organization doing business in this state and a like examination of each insurer making its own rates. The costs of such examination shall be fixed in the same manner as provided for in section 40 of this code, and shall be paid by the rating organization or insurer making its own rates examined. The Commissioner may, in his discretion, waive such examination upon proof that such rating organization has, within a reasonably recent period, been examined by a public official or department of another state, pursuant to the laws of such state, and upon the filing with the Department of a certified copy of the report of such examination. The officers, managers, agents, and employees of such rating organization or insurer making its own rates shall exhibit all its books, records, documents, or agreements governing its method of operation, its rating systems, and its accounts for the purpose of

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such examination. The Commissioner or his representative may, for the purpose of facilitating and furthering such examination, examine, under oath, the officers, managers, agents and employees of such rating organization or insurer making its own rates.

Section 298. NOTICE OF ADMISSION, WITHDRAWAL OR EXPULSION OF MEMBER OR SUBSCRIBER; READMISSION UPON PAYMENT OF DELINQUENT CHARGES. Every rating organization shall notify the Department within 10 days upon the admission, withdrawal or expulsion therefrom of any member or subscriber. Should a rating organization expel or otherwise exclude a subscriber for the refusal or failure of such subscriber to pay such rating organization the subscribership charges agreed upon, such rating organization shall re-admit such subscriber upon payment to it of any delinquent charges.

Section 299. ALTERING, SUPPLEMENTING OR AMENDING RATING SYSTEMS. A rating organization, or any insurer making its own rates, may, with the approval of the Commissioner, from time to time, alter, supplement, or amend its rating plans, or any part thereof, by filing with the Department copies of such alterations, supplements, or amendments together with a statement of the reason or reasons for such alteration, supplement, or amendment. If such alteration, supplement, or amendment shall have the effect of increasing or decreasing rates, the Commissioner shall determine whether the rates as altered thereby are reasonable, adequate, and not unfairly discriminatory. If the Commissioner shall determine that the rates as so altered are not unreasonably high, or inadequate, or unfairly discriminatory, he shall make an order approving them. If he shall find that the rates as altered are unreasonable, inadequate, or unfairly discriminatory, he shall issue an order disapproving such alteration, supplement or amendment. Notwithstanding the foregoing, but subject to the provisions of section 291 of this article, to the extent not inconsistent herewith, when a filing of adjustments of rates for existing classifications of risks does not involve a change in the relationship between such rates and the expense portion thereof or does not involve a change of the element of expenses which are paid as a percentage of premiums, or does not involve a change in rate relativities among such classifications on any basis other than loss experience, such filing shall become effective upon the date or dates specified in the filing and shall be deemed to meet the requirements of this article. The foregoing provisions shall not apply to workmen's compensation and employers' liability insurance.

Section 300. PREMIUMS MUST BE IN ACCORD WITH RATING SYSTEMS ON FILE WITH AND APPROVED BY

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COMMISSIONER; REBATES, ETC., PROHIBITED. No insurer or employee thereof, and no broker or agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the respective rating systems on file with and approved by the Commissioner. No insurer, or employee thereof, and no broker, or agent shall pay, allow, or give or offer to pay, allow, give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent that such rebate, discount, abatement, credit, reduction, favor, advantage, or consideration may be provided for in rating systems filed by or on behalf of such insurer and approved by the Commissioner. No insured named in a policy of insurance nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to regularly appointed and licensed agents and to brokers duly licensed by this state nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits.

Section 301. FALSE OR MISLEADING INFORMATION. No insurer, and no officer, agent, or employee thereof, shall give false or misleading information to any rating organization of which it is a member or subscriber, or to the Department, which will in any manner affect the proper determination of reasonable, adequate, and nondiscriminatory rates.

Section 302. VIOLATION RENDERS LICENSE OR CERTIFICATE OF AUTHORITY SUBJECT TO SUSPENSION; AUTOMATIC SUSPENSION OF LICENSE. Any rating organization which violates any provision of this article shall be subject to suspension of its license, and any insurer making its own rates which violates any provisions of this article shall be subject to suspension of its certificate of authority to do business in this state. Failure of a rating organization, or an insurer making its own rates, to comply with the provisions of any order of the Commissioner within 30 days after such order, or any extension thereof as the Commissioner may in his discretion, grant shall automatically suspend the license of such rating organization or insurer.

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Section 303. ORDER OF COMMISSIONER REVOKING OR SUSPENDING LICENSE. If the Commissioner shall find, after due notice and hearing that any rating organization, insurer, officer, agent or representative thereof has wilfully violated any of the provisions of this article, he may issue an order revoking or suspending the license of any such insurer, agent, broker or representative thereof.

Section 304. VIOLATION A MISDEMEANOR. Any rating organization, any insurer, officer, agent or representative thereof failing to comply with, or otherwise wilfully violating, any of the provisions of this article shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

Section 305. REASONABLE NOTICE OF ORDER REQUIRED; HEARING UPON REQUEST. The Commissioner shall not make any order under the provisions of this article without giving every rating organization and insurer who may be affected thereby reasonable notice and a hearing, if hearing is requested. All hearings provided for in this article shall be held at such time and place as shall be designated in a notice which shall be given in writing by registered mail to such rating organization and insurer or the officers and agents and representatives thereof which may be affected thereby, at least thirty (30) days before the date designated therein, which notice shall state the subject of the order. At the conclusion of such hearing, or within thirty (30) days thereafter, the Commissioner shall make such order or orders as he may deem necessary in accordance with his findings.

Section 306. REVIEW OF ORDER OF COMMISSIONER. Any final order made by the Commissioner as provided by law may, upon appropriate petition filed by the attorney general on behalf of the state or by any interested party, at any time within thirty days from the date of said order, be reviewed by the circuit court of Montgomery county, Alabama, sitting in equity, on a writ of certiorari. Upon the filing of such petition, the petitioner shall file with the register of said court a bond with good and sufficient sureties to be approved by the register, conditioned to pay all costs which may be assessed against the petitioner in such proceedings. The circuit court of Montgomery county, Alabama, sitting in equity, or the Court of Civil Appeals of Alabama, on appeal to it, may affirm said order or modify or repeal the same in whole or in part. From the judgment of the circuit court of Montgomery county, Alabama, sitting in equity, either the state or the interested party taking the appeal may appeal directly to the

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Court of Civil Appeals of Alabama within thirty days from the rendition of the judgment; the interested party so appealing to the Court of Civil Appeals shall give security for the costs of such appeal to be approved by the register of said court.

Section 307. DELEGATION OF AUTHORITY BY COMMISSIONER. Whenever, under the provisions of this article, the Commissioner is authorized or required to do any act, he may designate an assistant, or any salaried employee of the Department of the state of Alabama, to act in his place and stead, who shall report to the Commissioner and advise the Commissioner on the nature of the matter delegated. The Commissioner shall make such order, based upon such advice and report, as he shall, in his discretion, determine, and such order shall have the same force and effect as if the Commissioner had acted thereon personally.

ARTICLE 4

REGULATION OF INSURANCE ADVISORY ORGANIZATIONS

Section 308. DEFINITIONS. "Advisory organization" means every group, association or other organization of insurers, whether located within or without this state, which assists insurers which make their own filings or rating organizations in rate making by collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under articles 2 or 3 of this chapter.

Section 309. ADVISORY ORGANIZATIONS TO COMPLY WITH ARTICLE AND RULES, ETC., OF COMMISSIONER. Every advisory organization assisting any rating organization or any insurer, whose rates are subject to regulation under article 2, or any rating organization or any insurer whose rates are subject to regulation under article 3, as a condition precedent to the rendering of such assistance, shall comply with the provisions of this article and any and all duly promulgated rules or regulations or orders of the Commissioner relative to insurance rates, rate making or assistance therein.

Section 310. DOCUMENTS TO BE FILED WITH COMMISSIONER; UNFAIR PRACTICES; COMPLIANCE REQUIRED; VIOLATIONS. (a) Every advisory organization shall file with the Commissioner (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and its by-laws, rules and regulations governing its activities, (2) a list of its members, (3) the name and address of a resident of this state

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upon whom notices or orders of the Commissioner or process issued at his direction may be served, and (4) an agreement that the Commissioner may examine such advisory organization in accordance with the provisions of this section.

(b) If, after a hearing, the Commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of articles 2 or 3, as the case may be, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of one of the above cited articles and requiring the discontinuance of such act or practice.

(c) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations furnished to it by an advisory organization which has not complied with this article or with an order of the Commissioner involving such statistics or recommendations issued under subsection (b) of this section. If the Commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

Section 311. ADVISORY ORGANIZATIONS TO BE SUBJECT TO EXAMINATION. (a) Every advisory organization rendering assistance to a rating organization or to an insurer whose rates are subject to regulation under article 2, shall agree to be subject to examination in the same manner and upon the same terms and conditions as rating organizations and insurers making their own rates are pursuant to section 272.

(b) Every advisory organization rendering assistance to a rating organization or to an insurer whose rates are subject to regulation under article 3, shall agree to be subject to examination in the same manner and upon the same terms and conditions as rating organizations and insurers making their own rates are pursuant to section 297.

Section 312. ENFORCEMENT. The Commissioner is authorized and directed to enforce this article, and he is hereby authorized to make such orders, rules and regulations as are reasonable and proper to facilitate the administration hereof.

Section 313. EFFECT OF ARTICLE ON OTHER LAWS. The provisions of this article are supplemental and shall be construed in *pari materia* with other laws relating to insurance rates and rate making.

CHAPTER 14

THE INSURANCE CONTRACT

Section 314. SCOPE OF CHAPTER. This chapter applies as to all insurance contracts and annuity contracts, other than:

- (1) Reinsurance.
- (2) Policies or contracts not issued for delivery in this state nor delivered in this state.
- (3) Wet marine and transportation insurance.
- (4) Title insurance, except as to the following provisions:
 - (a) Section 318 (power to contract, etc.),
 - (b) Section 321 (filing, approval of forms),
 - (c) Section 322 (grounds for disapproval),
 - (d) Section 326 (charter, bylaw provisions),
 - (e) Section 327 (execution of policies), and
 - (f) Section 330 (construction of policies).

Section 315. "POLICY", "PREMIUM" DEFINED. (1) "Policy" means written contract of or written agreement for or effecting insurance, by whatever name called, and includes all clauses, riders, endorsements and papers attached or issued and delivered for attachment thereto and made a part thereof.

(2) "Premium" is the consideration for insurance, by whatever name called. Any "assessment," or any "membership," "policy," "survey," "inspection," "service" or similar fee or charge in consideration for an insurance contract is deemed part of the premium.

Section 316. INSURABLE INTEREST; PERSONAL INSURANCE. (1) Insurable interest with reference to personal insurance is an interest based upon a reasonable expectation of pecuniary advantage through the continued life, health or bodily safety of another person and consequent loss by reason of his death or disability, or a substantial interest engendered by love and affection in the case of individuals closely related by blood or by law.

(2) An individual has an unlimited insurable interest in his own life, health and bodily safety and may lawfully take out a policy of insurance on his own life, health or bodily safety and have the same made payable to whomsoever he pleases, regardless of whether the beneficiary so designated has an insurable interest.

(3) An insurable interest must exist at the time the contract of personal insurance becomes effective, but this requirement need not exist at the time the loss occurs.

(4) Any personal insurance contract procured or caused to be procured upon another individual is void unless the benefits under

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such contract are payable to the individual insured or his personal representative, or to a person having, at the time when such contract was made, an insurable interest in the individual insured. In the case of such void contract, the insurer shall not be liable on the contract, but shall be liable to repay to such person or persons who have paid the premiums, all premium payments without interest.

Section 317. INSURABLE INTEREST, PROPERTY. (1) No contract of insurance of property or of any interest in property or arising from property shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.

(2) "Insurable interest" as used in this section means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.

(3) The measure of an insurable interest in property is the extent to which the insured might be damnified by loss, injury, or impairment thereof.

Section 318. POWER TO CONTRACT; PURCHASE OF INSURANCE BY OR FOR MINORS. (1) Any person of competent legal capacity may contract for insurance.

(2) Any minor of the age of fifteen (15) years or more, as determined by the nearest birthday, may notwithstanding his minority, contract for annuities or for insurance upon his own life, body, health, property, liabilities or other interests, or on the person of another in whom the minor has an insurable interest. Such a minor shall, notwithstanding such minority, be deemed competent to exercise all rights and powers with respect to or under (a) any contract for annuity or for insurance upon his own life, body or health, or (b) any contract such minor effected upon his own property, liabilities or other interests, or on the person of another, as might be exercised by a person of full legal age, and may at any time surrender his interest in any such contracts and give valid discharge for any benefit accruing or money payable thereunder. Such a minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract, nor to rescind, avoid or repudiate any exercise of a right or privilege thereunder, except that such a minor, not otherwise emancipated, shall not be bound by any unperformed agreement to pay by promissory note or otherwise, any premium on any such annuity or insurance contract.

(3) Any annuity contract or policy of life or disability insurance procured by or for a minor under subsection (2), above, shall be made payable either to the minor or his estate or to a

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person having an insurable interest in the life of the minor.

Section 319. APPLICATION REQUIRED — LIFE AND DISABILITY INSURANCE. No life or disability insurance contract upon an individual, except a contract of group life insurance or of group or blanket disability insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto, except in the following cases:

(1) A spouse may effectuate such insurance upon the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to such minor.

(3) Family policies may be issued insuring any two (2) or more members of a family on an application signed by either parent, a step-parent, or by a husband or wife.

(4) An insurer shall be entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the insurable interest which such applicant has in the insured; and no insurer shall incur any legal liability except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

(5) As to kinds of insurance other than life or disability insurance, no application for insurance signed by or on behalf of the insured shall be admissible in evidence in any action between the insured and the insurer arising out of the policy so applied for, if the insurer has failed, at expiration of thirty (30) days after receipt by the insurer of written demand therefor by or on behalf of the insured, to furnish to the insured a copy of such application reproduced by any legible means.

(6) No alteration of any written application for any life or disability insurance policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

Section 320. REPRESENTATIONS IN APPLICATIONS. (1) All statements and descriptions in any application for an insurance policy or annuity contract, or in negotiations therefor, by or in behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent a

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recovery under the policy or contract unless either:

- (a) Fraudulent; or
- (b) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or
- (c) The insurer in good faith would either not have issued the policy or contract or would not have issued a policy or contract at the premium rate as applied for, or would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.

(2) No plea of misrepresentation or fraud in connection with the issuance of a life insurance policy or annuity contract shall be filed unless accompanied by a payment into court of all premiums paid on the policy or contract.

Section 321. FILING, APPROVAL OF FORMS. (1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this State, unless the form has been filed with and approved by the Commissioner. This provision shall not apply to surety bonds, or to specially rated inland marine risks, nor to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request or with the consent of the individual policyholder, contract holder, or certificate holder. As to group insurance policies effectuated and delivered outside this State but covering persons resident in this State, the group certificates to be delivered or issued for delivery in this State shall be filed, for the Commissioner's information only, with the Commissioner at his request. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than thirty (30) days in advance of any such delivery. At the expiration of such thirty (30) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner shall constitute a waiver of any unexpired portion

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of such waiting period. The Commissioner may extend by not more than an additional thirty (30) days the period within which he may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial thirty (30) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the Commissioner disapproving any such form or withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof.

(4) The Commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in section 47 of this code.

Section 322. GROUNDS FOR DISAPPROVAL. The Commissioner may disapprove any form filed under section 321, or withdraw any previous approval thereof, only if the form:

(1) Is in any respect in violation of or does not comply with this code; or

(2) Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(3) Has any title, heading, or other indication of its provisions which is misleading; or

(4) Is printed or otherwise reproduced in such manner as to render any provision of the form substantially illegible; or

(5) Contains provisions which are unfair or inequitable or contrary to the public policy of this State, or which would because such provisions are unclear or deceptively worded, encourage misrepresentation.

Section 323. STANDARD PROVISIONS, IN GENERAL. (1) Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this code pertaining to contracts of particular kinds of insurance; however, the Commissioner may waive the required use of a particular

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provision in a particular insurance policy form if:

(a) He finds such provision unnecessary for the protection of the insured or inconsistent with the purposes of the policy, and

(b) The policy is otherwise approved by him.

(2) No policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used, but the Commissioner may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.

(3) In lieu of the provisions required by this code for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the Commissioner.

Section 324. CONTENTS OF POLICIES IN GENERAL; IDENTIFICATION. (1) Every policy shall specify:

(a) The names of the parties to the contract.

(b) The subject of the insurance.

(c) The risks insured against.

(d) The time when the insurance thereunder takes effect and the period during which the insurance is to continue.

(e) The premium.

(f) The conditions pertaining to the insurance.

(2) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the premium is to be determined and paid shall be included.

(3) This section shall not apply as to surety contracts, or to group insurance policies.

Section 325. ADDITIONAL POLICY CONTENTS. A policy may contain additional provisions not inconsistent with this code and which are:

(1) Required to be inserted by the laws of the insurer's domicile;

(2) Necessary, on account of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties to the contract; or

(3) Desired by the insurer and neither prohibited by law nor in conflict with any provisions required to be included therein.

Section 326. CHARTER, BYLAW PROVISIONS. No policy shall contain any provision purporting to make any portion of the charter, bylaws or other constituent document of the insurer (other than the subscribers agreement or power of attorney of a reciprocal insurer) a part of the contract unless such portion is set

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forth in full in the policy. Any policy provision in violation of this section shall be invalid.

Section 327. EXECUTION OF POLICIES. (1) Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney-in-fact, employee, or representative duly authorized by the insurer.

(2) A facsimile signature of any such executing individual may be used in lieu of an original signature.

(3) No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile signature of an individual not authorized so to execute as of the date of the policy.

Section 328. UNDERWRITERS' AND COMBINATION POLICIES. (1) Two (2) or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policy shall plainly show the true name of the insurer.

(2) Two (2) or more insurers may issue a combination policy which shall contain provisions substantially as follows:

(a) That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy, and

(b) That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.

(3) This section shall not apply to co-surety obligations.

Section 329. VALIDITY OF NONCOMPLYING FORMS. Any insurance policy, rider, or endorsement hereafter issued and otherwise valid which contains any condition or provision not in compliance with the requirements of this code, shall not be thereby rendered invalid but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider, or endorsement been in full compliance with this code.

Section 330. CONSTRUCTION OF POLICIES. (1) Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended, or modified by any rider, endorsement, or application which is a part of the policy.

(2) A clause in any policy of life insurance, including burial

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insurance, providing that such policy shall be incontestible after a specified period, shall preclude only a contest of the validity of the policy and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

Section 331. BINDERS. (1) Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

(2) No binder shall be valid beyond the issuance of the policy with respect to which it was given, or beyond ninety (90) days from its effective date, whichever period is the shorter.

(3) If the policy has not been issued a binder may be extended or renewed beyond such ninety (90) days with the written approval of the Commissioner, or in accordance with such rules and regulations relative thereto as the Commissioner may promulgate.

(4) This section shall not apply to life or disability insurances.

Section 332. DELIVERY OF POLICY. (1) Subject to the insurer's requirements as to payment of premium, every policy shall be mailed or delivered to the insured or to the person entitled thereto within a reasonable period of time after its issuance except where a condition required by the insurer has not been met by the insured.

(2) In event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledgee of any motor vehicle, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle is insured, a duplicate of such policy setting forth the name and address of the insurer, insurance classification of vehicle, type of coverage, limits of liability, premiums for the respective coverages, and duration of the policy, or memorandum thereof containing the same such information, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum.

Section 333. RENEWAL BY CERTIFICATE. Any insurance policy terminating by its terms at a specified expiration date and

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not otherwise renewable, may be renewed or extended at the option of the insurer and upon a currently authorized policy form and at the premium rate then required therefor, for a specific additional period or periods by certificate or by endorsement of the policy, and without requiring the issuance of a new policy.

Section 334. ASSIGNMENT OF POLICIES. (1) A policy may be assignable or not assignable, as provided by its terms. Subject to its terms relating to assignability, any life or disability policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the owner, may be assigned either by pledge or transfer of title, by an assignment executed by the owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment. No such written assignment is required in the case of a policy loan made by the insurer under the terms of the policy.

(2) A policy of life insurance, taken out by the insured himself, or by a person having an insurable interest in the life of the insured, in good faith, may, unless the policy provides otherwise, be assigned to anyone as any other chose in action, without regard to whether the assignee has an insurable interest in the life insured or not.

Section 335. SITUS OF CONTRACT. All contracts of insurance, the application for which is taken within this State, shall be deemed to have been made within this State, and subject to the laws thereof.

Section 336. POLICY OF ALIEN INSURER NOT INVALIDATED BY WAR. No insurance contract issued to a citizen of this State by an insurer organized under the laws of a foreign country shall be invalidated by the occurrence of hostilities between such foreign country and the United States of America.

Section 337. PAYMENT DISCHARGES INSURER. Whenever the proceeds of or payments under a life or disability insurance policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract or by such

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assignment as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

Section 338. MINOR MAY GIVE ACQUITTANCE. (1) Any minor domiciled in this State who has attained the age of eighteen (18) years shall be deemed competent to receive and to give full acquittance and discharge for a payment or payments in aggregate amount not exceeding three thousand dollars (\$3,000.00) in any one year made by a life insurer under the maturity, death or settlement agreement provisions in effect or elected by such minor under a life insurance policy or annuity contract, provided such policy, contract or agreement shall provide for the payment or payments to such minor, and if prior to such payment the insurer has not received written notice of the appointment of a duly qualified guardian of the property of such minor. No such minor shall be deemed competent to alienate the right to or to anticipate such payments. This section shall not be deemed to restrict the rights of minors set forth in section 318 of this chapter.

(2) This section shall not be deemed to require any insurer to determine whether any other insurer may be effecting a similar payment to the same minor.

Section 339. FORMS FOR PROOF OF LOSS TO BE FURNISHED. An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued or assumed by such insurer, forms for proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

Section 340. CLAIMS ADMINISTRATION NOT WAIVER. Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

(1) Acknowledgement of the receipt of notice of loss or claim under the policy.

(2) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

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(3) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

Section 341. MISREPRESENTATIONS IN PROOFS OF LOSS; EFFECT. No misrepresentation in any proof of loss under any insurance policy shall defeat or void the policy, unless such misrepresentation is made with actual intent to deceive as to a matter material to the insured's rights under the policy.

Section 342. RIGHTS OF CREDITORS, BENEFICIARIES UNDER LIFE INSURANCE POLICIES. (1) If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance or his executors or administrators, shall be entitled to its proceeds and avails against the creditors, personal representatives, trustees in bankruptcy, and receivers in state and federal courts of the person insured and of the person effecting the insurance, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person; provided, that, subject to the statute of limitations, the amount of any premiums for the insurance paid with intent to defraud creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy; but the insurer issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless before such payment the insurer shall have written notice, by or in behalf of a creditor, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, with specifications of the amount claimed.

(2) If a policy of insurance, whether heretofore or hereafter issued is effected by any person on the life of another in favor of the person effecting the same, or except in cases of transfer with intent to defraud creditors, is made payable by assignment, change of beneficiary, or otherwise to any such person, the latter shall be entitled to the proceeds and avails of the policy as against the creditors, personal representatives, trustees in bankruptcy, and receivers in state and federal courts of the person insured. If the person effecting such insurance, or the assignee of such insurance, is the wife of the insured, she shall also be entitled to the proceeds and avails of the policy as against her own creditors, personal representatives, trustees in bankruptcy, and receivers in state and

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federal courts.

(3) "Proceeds and avails" as used in this section means death benefits, cash surrender and loan values, premiums waived, and dividends whether used in reduction of premiums or otherwise, excepting only where the debtor, subsequent to issuance of the policy, has actually elected to receive the dividends in cash.

(4) For the purposes of subsection (1) above, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligations after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

Section 343. LIFE PROCEEDS HELD BY INSURER; RIGHTS OF BENEFICIARIES, CREDITORS. If, under the terms of any annuity contract or life insurance policy, or under any written agreement supplemental thereto, issued by any life insurer, the proceeds or any part thereof are retained by the insurer at maturity or otherwise, no person entitled to any part of such proceeds or any installments of interest due or to become due thereon, shall be permitted to commute, anticipate, encumber, alienate or assign the same or any part thereof if such permission is expressly withheld by the terms of such contract, policy or supplemental agreement; and if such contract, policy or supplemental agreement so provides, no payment of interest or of principal shall be in any way subject to such person's debts, contracts, or engagements, nor to any judicial process to levy upon or attach the same for payment thereof.

Section 344. EXEMPTION OF PROCEEDS, DISABILITY INSURANCE. The proceeds or avails of all contracts of disability insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts heretofore or hereafter effected shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use. The exemption of income benefits payable as the result of disability shall not exceed an average of two hundred and fifty dollars (\$250.00) of such benefits per month of the period of disability.

Section 345. EXEMPTION OF PROCEEDS, ANNUITY CONTRACTS; ASSIGNABILITY OF RIGHTS. (1) The benefits, rights, privileges and options which under any annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers, or options, nor

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shall creditors be allowed to interfere with or terminate the contract, except:

(a) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the insurance or annuity contract, the person insured or annuitant and the payments sought to be avoided on the ground of fraud.

(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time exceed two hundred and fifty dollars (\$250.00) per month for the length of time represented by such installments, and such periodic payments in excess of two hundred and fifty dollars (\$250.00) per month shall be subject to garnishment.

(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of two hundred and fifty dollars (\$250.00) per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(2) If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

CHAPTER 15

LIFE INSURANCE AND ANNUITIES

Section 346. SCOPE OF CHAPTER. This chapter applies to contracts of life insurance and annuities, other than reinsurance, group life insurance, group annuities, industrial life and burial insurance; except that sections 360 (excluded or restricted coverage), 369 (limitation of liability), 370 (incontestability after reinstatement), 374 (prohibited policy plans), and 373 (standard nonforfeiture law) of this chapter shall apply to industrial life insurance also.

Section 347. STANDARD PROVISIONS REQUIRED. (1) No policy of life insurance other than industrial, group, and pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in this State unless it contains in substance all of the provisions required by sections 348 to 359, inclusive, of this chapter. This section shall not apply to burial insurance, annuity contracts, to any provision of a life insurance policy, or contract supplemental thereto, relating to disability benefits or to additional benefits in the event of death or dismemberment by accident or accidental means, or to any provision relating to waiver of premiums in the event of death or disability of the beneficiary or premium payer.

(2) Any of such provisions or portions thereof not applicable to single premium or term policies shall to that extent not be incorporated therein.

Section 348. GRACE PERIOD. There shall be a provision that a grace period of thirty days, or, at the option of the insurer, of one month of not less than thirty days, shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force; but if a claim arises under the policy during such period of grace the amount of any premium due or overdue may be deducted from the policy proceeds.

Section 349. INCONTESTABILITY. There shall be a provision that the policy (exclusive, at the option of the insurer, or provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except for non-payment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue.

Section 350. ENTIRE CONTRACT. There shall be a provision that the policy, or the policy and the application therefor if a

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copy of such application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and that all statements contained in the application shall, in the absence of fraud, be deemed representations and not warranties.

Section 351. MISSTATEMENT OF AGE OR SEX. There shall be a provision that if the age or sex of the insured or of any other person whose age or sex is considered in determining the premium has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or sex.

Section 352. DIVIDENDS. There shall be a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy, provided the policy is in force and all premiums to that date are paid. Except as hereinafter provided, any dividend becoming payable shall at the option of the party entitled to elect such option be either:

(1) Payable in cash, or

(2) Applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than thirty (30) days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of subdivision (1), above, even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed six (6) years from the date of apportionment, and that interest will be added to such dividend at a specified rate; and provided, further, that upon the maturity, surrender or other expiry of the policy, any such dividend and interest thereon shall not be forfeited to the insurer. If a participating policy provides that the benefit under any paid-up nonforfeiture provision is to be participating, it may provide that any divisible surplus becoming payable or apportioned while the insurance is in force under such nonforfeiture provision shall be applied in the manner set forth in the policy.

Section 353. POLICY LOAN. In case of policies issued on and after the operative date of section 373 of this chapter (standard

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nonforfeiture law), there shall be a provision that after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding eight percent per annum, payable in advance, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, provided that the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void, but not until at least 30 days notice shall have been mailed by the insurer to the last known address of the insured or policyowner and of any assignee of record at the home office of the insurer. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

This section shall not apply to term policies nor to term insurance benefits provided by rider or supplemental policy provision.

Section 354. TABLE OF VALUES. In policies issued on and after the operative date of section 373 (standard nonforfeiture law) there shall be a table showing in figures the loan value and the cash surrender values and nonforfeiture benefits in accordance with section 373 (2) (e), either during the first twenty (20) policy years or during the term of the policy, whichever is shorter.

Section 355. TABLE OF INSTALMENTS. In case the policy provides that the proceeds may be payable in instalments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed instalments.

Section 356. REINSTATEMENT. There shall be a provision that unless the policy has been surrendered for its cash value or its

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cash surrender value has been exhausted or the period of any extended insurance provided by the policy has expired, the policy will be reinstated at any time within three (3) years after the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all overdue premiums, and payment (or, within the limits permitted by the then cash value of the policy, reinstatement) of any other indebtedness to the insurer upon the policy, with interest as to both premiums and indebtedness at a rate not exceeding six percent (6%) per annum compounded annually.

Section 357. PAYMENT OF PREMIUMS. There shall be a provision relative to the payment of premiums.

Section 358. PAYMENT OF CLAIMS. There shall be a provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two months from the receipt of such proofs.

Section 359. TITLE. There shall be a title on the policy, briefly describing the same.

Section 360. EXCLUDED OR RESTRICTED COVERAGE. A clause in any policy of life insurance or annuity contract providing that such policy or contract shall be incontestable after a specified period shall preclude only a contest of the validity of the policy or contract, and shall not preclude the assertion at any time of defenses based upon provisions in the policy or contract which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

Section 361. STANDARD PROVISIONS—ANNUITY AND PURE ENDOWMENT CONTRACTS. (1) No annuity or pure endowment contract, other than reversionary annuities, survivorship annuities or group annuities and except as stated herein, shall be delivered or issued for delivery in this State unless it contains in substance each of the provisions specified in sections 362 to 367 inclusive, of this chapter. Any of such provisions not applicable to single premium annuities or single premium pure endowment contracts shall not, to that extent, be incorporated therein.

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(2) This section shall not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

Section 362. GRACE PERIOD—ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that there shall be a period of grace of one month, but not less than thirty days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract but not exceeding six percent per annum for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force; but in case a claim arises under the contract on account of death prior to expiration of the period of grace before the overdue payment to the insurer or the deferred payments of the current contract year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement.

Section 363. INCONTESTABILITY—ANNUITIES. If any statements, other than those relating to age, sex and identity are required as a condition to issuing an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, and subject to section 365 of this chapter, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of two years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

Section 364. ENTIRE CONTRACT—ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the written contract shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the written contract and the application therefor shall constitute the entire contract between the parties.

Section 365. MISSTATEMENT OF AGE OR SEX—ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or of any of them, has

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been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex; and that if the insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof, with interest at the rate to be specified in the contract but not exceeding six percent (6%) per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract.

Section 366. DIVIDENDS—ANNUITIES. If an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

Section 367. REINSTATEMENT—ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding six percent per annum payable annually, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

Section 368. STANDARD PROVISIONS—REVERSIONARY ANNUITIES. (1) Except as stated herein, no contract for a reversionary annuity shall be delivered or issued for delivery in this State unless it contains in substance each of the following provisions:

(a) Any such reversionary annuity contract shall contain the provisions specified in sections 362 through 366 except that under section 365 the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue or deferred payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.

(b) In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account

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of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding six percent per annum compounded annually.

(2) This section shall not apply to group annuities or to annuities included in life insurance policies, and any of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.

Section 369. LIMITATION OF LIABILITY. (1) No policy of life insurance shall be delivered or issued for delivery in this State if it contains any of the following provisions:

(a) A provision for a period shorter than that provided by statute within which an action at law or in equity may be commenced on such a policy.

(b) A provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(i) Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(ii) Death as a result of aviation or any air travel or flight;

(iii) Death as a result of a specified hazardous occupation or occupations, avocation or avocations;

(iv) Death while the insured is a resident outside continental United States and Canada; or

(v) Death within two years from the date of issue of the policy as a result of suicide, while sane or insane.

(2) A policy which contains any exclusion or restriction pursuant to subsection (1) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the Commissioners reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit; except, that if the policy has been in force for not more than two (2) years, the insurer shall pay the amount of the gross premiums charged on the

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policy less dividends paid in cash or used in the payment of premiums thereon and less any indebtedness to the insurer on the policy, including interest due or accrued.

(3) This section shall not apply to group life insurance, disability insurance, reinsurance, or annuities, or to any provision in a life insurance policy or contract supplemental thereto relating to disability benefits or to additional benefits in the event of death or dismemberment by accident or accidental means or to any provision relating to waiver of premium in event of death or disability of the beneficiary or premium payer.

(4) Nothing contained in this section shall prohibit any provision which in the opinion of the Commissioner is more favorable to the policyholder than a provision permitted by this section.

Section 370. INCONTESTABILITY AFTER REINSTATEMENT. A reinstated policy of life insurance or annuity contract may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

Section 371. POLICY SETTLEMENTS. Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate the funds so held but may hold them as part of its general assets.

Section 372. INDEBTEDNESS DEDUCTED FROM PROCEEDS. In determining the amount due under any life insurance policy heretofore or hereafter issued, deduction may be made of:

(1) Any unpaid premiums or instalments thereof for the current policy year due under the terms of the policy, and of

(2) The amount of principal and accrued interest of any policy loan or other indebtedness against the policy then remaining unpaid.

Section 373. STANDARD NONFORFEITURE LAW — LIFE INSURANCE. (1) This section shall be known as the standard nonforfeiture law.

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(2) **Nonforfeiture provisions — Life:** In the case of policies issued on or after the operative date of this section as defined in subsection (12) of this section, no policy of life insurance, except as set forth in subsection (11) of this section, shall be delivered or issued for delivery in this State unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the Commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(b) That upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance, and five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default.

(d) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than

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the minimum values and benefits required by or pursuant to the insurance law of this State; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(3) Any of the provisions or portions thereof set forth in subdivisions (a) through (f) of the foregoing subsection (2) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

(4) Cash surrender value — Life: Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (2) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of:

(a) The then present value of the adjusted premium as defined in subsections (6), (7), (8), and (9) of this section, corresponding to premiums which would have fallen due on and after such anniversary, and

(b) The amount of any indebtedness to the insurer on account of or secured by the policy.

Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(5) Paid-up nonforfeiture benefits — Life: Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the

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condition that premiums shall have been paid for at least a specified period.

(6) The adjusted premium — Life: Except as provided in Subsection (8) the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy;

(b) Two percent (2%) of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with the duration of the policy;

(c) Forty percent (40%) of the adjusted premium for the first policy year;

(d) Twenty-five percent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. Provided, however, that in applying the percentages specified in subdivisions (c) and (d) above, no adjusted premiums shall be deemed to exceed four percent (4%) of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.

(7) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (6) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance

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provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten (10).

(8) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such insurance benefits increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subsections (6) and (7) above.

(9) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three (3) years younger than the actual age of the insured. Such calculation for all policies of industrial insurance shall be made on the basis of the Commissioners 1961 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three-and-one-half percent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed in the case of ordinary policies, may not be more than those shown in the Commissioners' 1958 Extended Term Insurance Table, and in the case of industrial policies, may not be more than those shown in the Commissioners' 1961 Industrial Extended Term Insurance Table; provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the Commissioner.

(10) Calculation of Values — Life: Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (4), (5), (6), (7), (8) and (9) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwith-

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standing the provisions of subsection (4) of this section, additional benefits payable:

(a) In the event of death or dismemberment by accident or accidental means,

(b) In the event of total and permanent disability,

(c) As reversionary annuity or deferred reversionary annuity benefits,

(d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply,

(e) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and

(f) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(11) Exceptions. This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof of fifteen (15) years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsections (6), (7), (8) and (9) of this section is less than the adjusted premium so calculated on such fifteen (15) year term policy issued at the same age and for the same initial amount of insurance. This section shall not apply to benefits provided in the form of funeral or monument merchandise and services under burial policies except to the extent provided in section 404 of this code.

(12) Operative Date. Insurers complying with the provisions of this Section prior to the effective date of this Code may continue such compliance without the filing of any notice with the Commissioner. After the effective date of this Code, any insurer may file with the Commissioner a written notice of its election to comply with the provisions of this Section after a specified date before January 1, 1972. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer) this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such

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election, the operative date of this section for such insurer shall be January 1, 1972.

Section 374. PROHIBITED POLICY PLANS. (1) No insurer shall hereafter deliver or issue for delivery in this State any policy or contract providing for the establishment of its policyholders or members into divisions and classes and for payment of benefits from special funds created for such purpose to the oldest member of the division and class, or to the member of the division and class whose policy has been in force the longest period of time, upon the death of a member in such division and class, or under any other similar plan. Except, that any insurer heretofore operating on such a plan in this state (whether by conversion from a fraternal benefit society or otherwise) may continue to do so upon the condition that the insurer shall not hereafter establish its policyholders or members into any new divisions, classes, or groupings of any kind, other than those heretofore established and containing subsisting policies heretofore issued, and that the insurer, if a stock insurer, shall have and maintain paid-in capital stock of at least one hundred thousand dollars (\$100,000.00), or, if a mutual insurer, a surplus of at least twenty-five thousand dollars (\$25,000.00) and increase such surplus to, and thereafter maintain surplus in the amount of, at least one hundred thousand dollars (\$100,000.00) within six (6) years from the effective date of this code.

(2) No insurer shall deliver or issue for delivery in this State as a part of or in combination with any insurance, endowment, or annuity contract, any agreement or plan which provides for the accumulation of profits over a period of years and for payment of all or any part of such accumulated profits only to policyholders or members of a designated group or class who continue as members or policyholders until the end of a specified period of time, or under any other similar plan.

(3) This section shall not be deemed to prohibit the payment or allowance of regular annual dividends or "savings" under regular participating forms of policies or contracts.

CHAPTER 16

INDUSTRIAL LIFE INSURANCE

Section 375. SCOPE OF CHAPTER. The provisions of this chapter apply only to industrial life insurance policies. Sections 360 (excluded or restricted coverage), 369 (limitation of liability), 370 (incontestability after reinstatement), 374 (prohibited policy plans), and 373 (standard nonforfeiture law) of chapter 15 shall also apply to industrial life insurance.

Section 376. "INDUSTRIAL LIFE INSURANCE" DEFINED. For the purposes of this code "industrial life insurance" is that form of life insurance written under policies of face amount to two thousand five hundred dollars (\$2,500.00) or less bearing the words "industrial policy" imprinted on the face thereof as part of the descriptive matter, and under which premiums are payable monthly or more often.

Section 377. REQUIRED PROVISIONS. (1) No policy of industrial life insurance shall be delivered or be issued for delivery in this State unless it contains in substance the applicable provisions set forth in sections 378 to 388 inclusive, of this chapter.

(2) This section does not apply to burial insurance policies as defined in section 392.

Section 378. GRACE PERIOD. There shall be a provision that the insured is entitled to a grace period of four weeks within which the payment of any premiums after the first may be made, except that in policies the premiums for which are payable monthly, the period of grace shall be one month, but not less than thirty days; that during the period of grace the policy shall continue in full force, but if during the grace period the policy becomes a claim, then any overdue and unpaid premiums may be deducted from any settlement under the policy.

Section 379. ENTIRE CONTRACT — STATEMENTS IN APPLICATION. There shall be a provision that the policy shall constitute the entire contract between the parties, or, if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract. If the application is so made a part of the contract, the policy shall also provide that all statements made by the applicant in such application shall, in the absence of fraud, be deemed to be representations and not warranties.

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Section 380. **INCONTESTABILITY.** There shall be a provision that the policy (exclusive of provisions relating to disability or dismemberment benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two (2) years from its date of issue.

Section 381. **MISSTATEMENT OF AGE.** There shall be a provision that if it is found that the age or sex of the individual insured, or the age or sex of any other individual considered in determining the premium, has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages, sex or sexes.

Section 382. **DIVIDENDS.** If a participating policy, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy, except that at the option of the insurer such participation may be deferred to the end of the fifth policy year. This provision shall not prohibit the payment of additional dividends on default of payment of premiums or termination of the policy.

Section 383. **REINSTATEMENT; COMPLETION AND WAIVER.** (1) There shall be a provision that unless the policy has been surrendered for its cash value or its cash surrender value has been exhausted or the period of any extended insurance provided by the policy has expired, the policy will be reinstated at any time within two (2) years after the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all overdue premiums, and payment (or, within the limits permitted by the then cash value of the policy, reinstatement) of any other indebtedness to the insurer upon the policy, with interest as to both premiums and indebtedness at a rate not exceeding six percent (6%) per annum compounded annually.

(2) If for the purpose of or toward reinstatement of a policy after its lapse the insurer receives a payment or tender of premium or other funds in amount less than as required to effectuate the reinstatement so as to place the policy currently in full force, then within sixty (60) days after the receipt of such payment or tender the insurer shall either:

(a) Collect whatever amount is necessary to effectuate the reinstatement and place the policy in full force and effect currently, or

(b) Refund to the person entitled thereto all such payments and amounts tendered and refuse the reinstatement; or

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(c) In the absence of action referred to in subdivisions (a) or (b) above, the insurer shall be deemed as a matter of law to have effectuated reinstatement of the policy so that it is in full force and effect currently as of the end of such sixty (60) day period, and to have forever waived the payment or collection of all premiums and amounts theretofore due and unpaid under the policy.

(3) The provisions made in subsection (2) above, need not be contained in the policy.

Section 384. PAYMENT OF CLAIMS. There shall be a provision that when the policy becomes a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and premium receipt book and proof of interest of the claimant. If the insurer specifies a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two months from the receipt of such proofs.

Section 385. AUTHORITY TO ALTER CONTRACT. There shall be a provision that no agent shall have the power or authority to waive, change or alter any of the terms or conditions of any policy, except that at the option of the insurer the terms or conditions may be changed by an endorsement or rider signed by a duly authorized officer of the insurer.

Section 386. BENEFICIARY — FACILITY OF PAYMENT.

(1) Each such policy shall have a space for the name of the beneficiary designated with a reservation of the right to designate or change the beneficiary after the issuance of the policy.

(2) The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured.

(3) Such a policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall be not less than thirty days after the death of the insured, or if the beneficiary is the estate of the insured or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make payment thereunder to the executor or administrator of the insured, or to any of the insured's relatives by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attention or burial

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of the insured. Such policy may also include a similar provision applicable to any other payment due under the policy.

Section 387. NONFORFEITURE BENEFITS. There shall be provisions for nonforfeiture benefits and cash surrender values as required by section 373 of this code.

Section 388. TITLE. There shall be a title on the face of each such policy briefly describing the same.

Section 389. APPLICATION TO TERM AND SPECIFIED INSURANCE. Any of the provisions required by sections 378 to 388 inclusive, of this chapter or any portion thereof which are not applicable to single premium or term policies or to policies issued or granted pursuant to nonforfeiture provisions shall to that extent not be incorporated therein.

Section 390. CONVERSION. There may be a provision in the case of industrial policies granting to the insured, upon proper written request and upon presentation of evidence of insurability satisfactory to the insurer, the privilege of converting any industrial insurance policy to any form of life insurance with less frequent premium payments regularly issued by the insurer, in accordance with terms and conditions agreed upon with the insurer. The privilege of making such conversion need be granted only if the insurer's industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of such insurance with less frequent premium payments issued by the insurer at the age of the insured on the plan of industrial or ordinary insurance desired.

Section 391. PROHIBITED PROVISIONS. No policy of industrial life insurance shall contain any of the following provisions:

(1) A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.

(2) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within two years prior to the issuance of the policy, received institutional, hospital, medical or

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surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

(3) A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

CHAPTER 17

BURIAL INSURANCE POLICIES

Section 392. SCOPE; DEFINITION OF "BURIAL INSURANCE." (1) This chapter applies only to burial insurance policies.

(2) For the purposes of this code "burial insurance" is that form of life insurance under which (a) benefits are provided in the form of merchandise and services incident to the burial of the insured or the furnishing of a monument to the insured; (b) the specified retail value of such merchandise and services does not exceed one thousand five hundred dollars (\$1,500.00); and (c) the words "burial policy," "vault policy," "monument policy," or words of similar import, are printed on the policy as a part of its description.

Section 393. REQUIRED PROVISIONS. No policy of burial insurance shall be delivered or issued for delivery in this state unless it contains in substance the provisions set forth in sections 394 through 405, or corresponding provisions which in the opinion of the Commissioner are not less favorable in any respect to the policyholder. Any of such provisions or portions thereof not applicable to single premium policies shall to that extent be omitted therefrom.

Section 394. GRACE PERIOD. There shall be a provision that the insured is entitled to a grace period of four weeks within which the payment of any premium after the first may be made, except that in policies, the premiums for which are payable monthly or less often, the period of grace shall be one month but not less than thirty days; that during the period of grace the policy shall continue in full force, but if during the grace period the policy becomes a claim then any overdue premiums may be deducted from any cash payment which may be due under the policy.

Section 395. ENTIRE CONTRACT. There shall be a provision that the policy shall constitute the entire contract between the parties, or if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract. If the application is so made a part of the contract, the policy shall also provide that all statements made by the applicant in such application shall, in the absence of fraud, be deemed to be representations and not warranties.

Section 396. INCONTESTABILITY. There shall be a provision with respect to benefits provided in the form of merchandise and

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services incident to the burial of the insured, that the policy shall be incontestable from its date of issue except for non-payment of premiums; and, with respect to benefits payable in cash, monuments, waiver of premium benefits and disability benefits, a provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of two (2) years from its date of issue, except for non-payment of premiums and except, at the option of the insurer, as to provisions relating to benefits in event of dismemberment or disability or to additional benefits for death by accident or accidental means.

Section 397. REINSTATEMENT. (1) There shall be a provision that the policy may be reinstated at any time within two (2) years after the date of default in the payment of any premium, unless the policy has been surrendered for its cash value or the period of any extended insurance provided by the policy has expired, upon evidence of insurability satisfactory to the insurer and the payment of all overdue premiums with interest at a rate not exceeding six percent (6%) per annum compounded annually.

(2) Subsections (2) and (3) of section 383 shall also apply as to burial insurance policies.

Section 398. AUTHORIZED FUNERAL DIRECTOR OR MONUMENT DEALER. There shall be a provision that the insurer has contracted with and appointed an authorized funeral director or monument dealer in this state to furnish the merchandise and services provided by the policy. The policy may also provide that the term "authorized funeral director" or "authorized monument dealer" shall mean a funeral director or monument dealer authorized by the insurer at the time of the insured's death.

Section 399. FURNISHING OF FUNERAL OR MONUMENT BENEFITS. There shall be a provision that if the death of the insured (or if a vault or monument policy, the burial of the insured) occurs within the State of Alabama and within a specified distance from an authorized funeral director or monument dealer of the insurer, the merchandise and services provided by the policy shall be furnished by such authorized funeral director or monument dealer upon the request of the beneficiary or other person having authority to make funeral arrangements.

Section 400. BENEFITS WHERE MERCHANDISE AND SERVICES NOT FURNISHED. There shall be a provision that if the death of the insured (or if a vault or monument policy, the burial of the insured) occurs outside the State of Alabama or at a greater distance from an authorized funeral director or monument dealer of the insurer than that specified in section 399, the insurer

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will, in lieu of furnishing such merchandise and services, pay a cash benefit of not less than one-half of the specified retail value of the merchandise and services provided in the policy; provided, however, that the insurer may provide for a reduced benefit as to an insured less than one (1) year of age at death. The policy may contain a provision for the payment of such cash benefit at the option of the insurer under any other circumstances where it is impractical for any reason to furnish the merchandise and services provided by the policy.

Section 401. BENEFICIARY. Each such policy shall have a space for the name of the beneficiary designated with a reservation of the right to designate or change the beneficiary after the issuance of the policy. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured.

Section 402. PAYMENT OF CASH BENEFITS. (1) There shall be a provision that any cash benefit provided by the policy upon the death of the insured will be payable upon receipt of due proof of death of the insured, and, at the insurer's option, the surrender of the policy and premium receipt book.

(2) The policy may also provide for the payment of such benefit or any other cash benefit due under the policy to the beneficiary designated in the policy, or to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attention, or burial of the insured.

Section 403. AUTHORITY TO ALTER CONTRACT. There shall be a provision that no agent shall have the power or authority to waive, change, or alter any of the terms or conditions of any policy, except that at the option of the insurer the terms or conditions may be changed by an endorsement signed by a duly authorized officer of the insurer.

Section 404. NONFORFEITURE BENEFITS. There shall be provisions for nonforfeiture benefits and cash surrender values as required by section 373 of this code, except that, with respect to benefits provided in the form of funeral or monument merchandise and services, the required minimum cash surrender values shall be two-thirds of the cash surrender values which would be

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required for a cash life insurance policy having a face amount equal to the cash benefit provided in accordance with section 400.

Section 405. **POLICY TITLE.** There shall be a title on the face of the policy briefly describing the same.

Section 406. **OTHER PROVISIONS APPLICABLE.** The following provisions of this code shall also apply as to burial insurance policies:

- (1) Section 360 (excluded or restricted coverage).
- (2) Section 369 (limitation or liability).
- (3) Section 370 (incontestability after reinstatement).
- (4) Section 374 (prohibited policy plans).
- (5) Section 390 (conversion).

CHAPTER 18

GROUP LIFE INSURANCE

Section 407. SCOPE OF CHAPTER. This chapter applies only as to group life insurance contracts hereafter issued, and does not apply as to group life insurance contracts heretofore issued or to any amendment or renewal of such heretofore issued contracts.

Section 408. PROVISIONS REQUIRED IN GROUP CONTRACTS. No policy of group life insurance shall be delivered in this State unless it contains in substance the applicable provisions set forth in sections 409 through 419 of this chapter or provisions which in the opinion of the Commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder; except, however, that:

(1) Sections 415 and 419 inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor;

(2) The standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and

(3) If the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the Commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies.

Section 409. GRACE PERIOD. The group life insurance policy shall contain a provision that the policyholder is entitled to a grace period of not less than thirty (30) days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

Section 410. INCONTESTABILITY. The group life insurance policy shall contain a provision that the validity of the policy shall not be contested, except for nonpayment of premium, after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to

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his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by him.

Section 411. APPLICATION; STATEMENTS DEEMED REPRESENTATIONS. The group life insurance policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

Section 412. INSURABILITY. The group life insurance policy shall contain a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability, satisfactory to the insurer as a condition to part or all of his coverage.

Section 413. MISSTATEMENT OF AGE. The group life insurance policy shall contain a provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

Section 414. STATEMENT OF INSURANCE TO DEBTORS. In the case of a policy issued to a creditor to insure debtors of such creditor, there shall be a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

Section 415. PAYMENT OF BENEFITS. The group life insurance policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding five hundred dollars (\$500.00) to

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any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

Section 416. CERTIFICATE. The group life insurance policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in sections 417, 418 and 419.

Section 417. CONVERSION ON TERMINATION OF ELIGIBILITY. The group life insurance policy shall contain a provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer within thirty-one days after such termination, and provided further that:

(1) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(2) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination less the amount of any life insurance for which such person is or becomes eligible under any other group policy within thirty-one days after such termination, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in instalments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

(3) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

Section 418. CONVERSION ON TERMINATION OF POLICY. The group life insurance policy shall contain a provision that if the group policy terminates or is amended so as to

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terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 417, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of:

(1) The amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one days after such termination, and

(2) Two thousand dollars (\$2,000.00).

Section 419. DEATH PENDING CONVERSION. The group life insurance policy shall contain a provision that if a person insured under the policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with section 417 and 418 and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

Section 420. NOTICE AS TO CONVERSION RIGHT. If any individual insured under a group life insurance policy hereafter delivered in this State becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to making of application and payment of the first premium within the period specified in such policy, and if such individual is not given notice of the existence of such right at least fifteen (15) days prior to the expiration date of such period, then, in such event the individual shall have an additional period within which to exercise such right, but nothing herein contained shall be construed to continue any insurance beyond the period provided in such policy. This additional period shall expire fifteen (15) days next after the individual is given such notice but in no event shall such additional period extend beyond sixty (60) days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the

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policyholder shall constitute notice for the purpose of this section.

Section 421. “EMPLOYEE LIFE INSURANCE” DEFINED. “Employee life insurance” is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where such policies are issued on the lives of not less than three (3) employees at date of issue. Premiums for such policies shall be paid by the employer or the trustee of a fund established by the employer either wholly from the employer’s funds, or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees, or from funds contributed wholly by the insured employees.

Section 421-1. ASSIGNMENT OF RIGHTS UNDER GROUP POLICY. Any person insured under a group insurance policy may, in accordance with Section 334 of this Code and pursuant to the terms of such policy or an arrangement among the insured, the group policyholder, and the insurer, make an assignment of the rights and benefits conferred by any provision of such policy or by law, including specifically, but not by way of limitation, the right to have issued to the insured an individual policy arising from conversion or otherwise and the right to name a beneficiary. Any assignment permitted herein, whether made before or after the effective date of this code shall be valid for the purpose of vesting in the assignee all such rights and benefits so assigned, and shall entitle the insurer to deal with the assignee as the owner of all rights and benefits conferred on the insured under the policy in accordance with the terms of the assignment without prejudice to the insurer on account of any payment it may make or any individual policy it may issue arising from conversion prior to receipt at its home office of written notice of such assignment. This section acknowledges, declares and codifies the right of assignment of interest under like insurance policies existing prior to the enactment of this code.

CHAPTER 19

DISABILITY INSURANCE POLICIES

Section 422. SCOPE OF CHAPTER. Nothing in this chapter shall apply to or affect:

(1) Any policy of liability or workmen's compensation insurance with or without supplementary expense coverage therein.

(2) Any group or blanket policy.

(3) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to disability insurance as:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident, or as

(b) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

(4) Reinsurance.

(5) Industrial insurance, which is disability insurance issued under policies sold on a debit basis, bearing the words "industrial policy" imprinted on the face of the policy as part of the descriptive matter, and with premiums payable monthly or more often.

Section 423. SCOPE, FORMAT OF POLICY. No policy of disability insurance shall be delivered or issued for delivery to any person in this State unless it otherwise complies with this code, and complies with the following:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time when the insurance takes effect and terminates shall be expressed therein;

(3) It shall purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of the family, who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age and any other person dependent upon the policyholder;

(4) The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than ten point with a lower case unspaced

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alphabet length not less than one hundred and twenty point (the “text” shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions);

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 425 to 447, inclusive, of this chapter, shall be printed, at the insurer’s option, either included with the benefit provision to which they apply, or under an appropriate caption such as “Exceptions,” or “Exceptions and Reductions,” except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(6) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof;

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the Commissioner.

Section 424. REQUIRED PROVISIONS; CAPTIONS. — OMISSIONS — SUBSTITUTIONS. (1) Except as provided in subsection (2) below, each such policy delivered or issued for delivery to any person in this State shall contain the provisions specified in sections 425 to 436, inclusive, of this chapter, in the words in which the same appear; except, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the Commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision shall be preceded individually by the applicable caption shown, or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

(2) If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the Commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Section 425. ENTIRE CONTRACT — CHANGES. There shall be a provision as follows:

“Entire Contract; Changes: This policy, including the endorse-

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ments and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.”

Section 426. TIME LIMIT ON CERTAIN DEFENSES. There shall be a provision as follows:

“Time Limit on Certain Defenses: (1) After two (2) years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.”

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, nor to limit the application of sections 438 through 442 of this chapter in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age fifty (50) or, (2) in the case of a policy issued after age forty-four (44), for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer’s option) under the caption “Incontestable”:

“After this policy has been in force for a period of two (2) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.”

“(2) No claim for loss incurred or disability (as defined in the policy) commencing after two (2) years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.”

Section 427. GRACE PERIOD. There shall be a provision as follows:

“Grace Period: A grace period of . . . (insert a number not less than ‘7’ for weekly premium policies, ‘10’ for monthly premium policies and ‘31’ for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.”

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision,

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“Unless not less than thirty (30) days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.”

Section 428. REINSTATEMENT. There shall be a provision as follows:

“Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and the insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement.”

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums

- (1) Until at least age 50, or
- (2) In the case of a policy issued after age 44, for at least five years from its date of issue.

Section 429. NOTICE OF CLAIM. There shall be a provision as follows:

“Notice of Claim: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at . . . (insert the location of such office as the insurer may designate for the purpose), or to any

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authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.”

In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

“Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of the claim, give to the insurer notice of continuance of the disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured’s right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.”

Section 430. CLAIM FORMS. There shall be a provision as follows:

“Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.”

Section 431. PROOFS OF LOSS. There shall be a provision as follows:

“Proofs of Loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.”

Section 432. TIME OF PAYMENT OF CLAIMS. There shall

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be a provision as follows:

“Time of Payment of Claims: Indemnities payable under this policy for any loss other than loss for which this policy provides periodic payment, will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid . . . (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.”

Section 433. PAYMENT OF CLAIMS. There shall be a provision as follows:

“Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured’s death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.”

The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

“If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$. . . (insert an amount which shall not exceed \$1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.”

“Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer’s option and unless the insured requests otherwise in writing not later than the time of filing proof of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.”

Section 434. PHYSICAL EXAMINATION, AUTOPSY. There shall be a provision as follows:

“Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the

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person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law."

Section 435. **LEGAL ACTIONS.** There shall be a provision as follows:

"Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished."

Section 436. **CHANGE OF BENEFICIARY.** There shall be a provision as follows:

"Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change a beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy."

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)

Section 437. **OPTIONAL POLICY PROVISIONS.** Except as provided in subsection (2) of section 424 of this chapter, no such policy delivered or issued for delivery to any person in this State shall contain provisions respecting the matters set forth in sections 438 to 447, inclusive, of this chapter unless such provisions are in the words in which the same appear in the applicable section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the Commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

Section 438. **CHANGE OF OCCUPATION.** There may be a provision as follows:

"Change of Occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the

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indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

Section 439. MISSTATEMENT OF AGE. There may be a provision as follows:

"Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

Section 440. OTHER INSURANCE IN THIS INSURER. There may be a provision as follows:

"Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for . . . (insert type of coverage or coverages) in excess of \$. . . (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."

Or, in lieu thereof:

"Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

Section 441. INSURANCE WITH OTHER INSURERS (Provision of Service or Expense Incurred Basis). (1) There may be a provision as follows:

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“Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the prop rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the ‘like amount’ of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.”

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 442 of this chapter there shall be added to the caption of the foregoing provision the phrase “—Expense Incurred Benefits.” The insurer may, at its option, include in this provision a definition of “other valid coverage,” approved as to form by the Commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the Commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen’s compensation or employer’s liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be “other valid coverage” of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as “other valid coverage.”

**Section 442. INSURANCE WITH OTHER INSURERS
OTHER BENEFITS.** (1) There may be a provision as follows:

“Insurance With Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer

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has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.”

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 441 of this chapter, there shall be added to the caption of the foregoing provision the phrase “—Other Benefits.” The insurer may, at its option, include in this provision a definition of “other valid coverage,” approved as to form by the Commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the Commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen’s compensation or employer’s liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be “other valid coverage” of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as “other valid coverage.”

Section 443. RELATION OF EARNINGS TO INSURANCE.

(1) There may be a provision as follows:

“Relation of Earnings to Insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the

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premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of \$200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time."

(2) The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (a) until at least age 50, or (b) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the Commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the Commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

Section 444. UNPAID PREMIUMS. There may be a provision as follows:

"Unpaid Premiums: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom."

Section 445. CONFORMITY WITH STATE STATUTES. There may be a provision as follows:

"Conformity with State Statutes: Any provision of this policy which, on its effective date is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."

Section 446. ILLEGAL OCCUPATION. There may be a provision as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

Section 447. INTOXICANTS AND NARCOTICS. There may

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be a provision as follows:

“Intoxicants and Narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured’s being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.”

Section 448. ORDER OF CERTAIN PROVISIONS. The provisions which are the subject of sections 425 to 447, inclusive, of this chapter, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided that the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

Section 449. THIRD PARTY OWNERSHIP. The word “insured,” as used in this chapter, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits, and rights provided therein.

Section 450. REQUIREMENTS OF OTHER JURISDICTIONS. (1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this State, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this chapter and which is prescribed or required by the law of the state or country under which the insurer is organized.

(2) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

Section 451. RENEWABILITY. (1) Every individual policy of insurance providing hospital, medical or surgical benefits in which an insurer reserves the right to refuse renewal on an individual basis shall provide, in substance, in a provision thereof or in an endorsement thereon or in a rider attached thereto that subject to the right to terminate the policy upon nonpayment of premium when due, such right to refuse renewal shall not be exercised before the renewal date occurring on, or after and nearest, each policy anniversary, or in the case of lapse and reinstatement before the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement, and that any refusal of

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renewal shall be without prejudice to any claim originating while the policy is in force. Subject to the right to terminate for non-payment of premium, the right to refuse renewal by an insurer shall only be exercised after having given the insured no less than thirty (30) days notice in writing of the intent not to renew.

(2) Every individual disability insurance policy which is subject to renewal at the option of the insurer shall so indicate in a prominently captioned statement on the first page of such policy.

Section 452. EXAMINATION OF CONTRACT. Every individual disability insurance policy except single premium non-renewable policies or contracts, issued for delivery in the State of Alabama shall have printed thereon or attached thereto a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten (10) days of its delivery to such purchaser and to have the premium paid refunded if, after examination of the policy, the purchaser is not satisfied with it for any reason. If a policyholder or purchaser pursuant to such notice returns the policy or contract to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy or contract has been issued.

Section 453. AMENDMENT OF POLICIES BY RIDERS OR ENDORSEMENTS. Any insurer writing disability insurance policies, may, with approval of the Commissioner, add endorsements or riders to existing policies of such insurance with or without increase in premium; provided, there is shown separately on the endorsement or rider a stated premium charge for additional coverage.

Section 454. COMPLIANCE BY RIDER OR ENDORSEMENT. The requirements of this chapter may be complied with by the insurer, by attaching to the policy such rider or endorsement as may be necessary for the purpose.

Section 455. CONFORMING TO STATUTE. (1) No policy provision which is not subject to this chapter shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this chapter.

(2) A policy delivered or issued for delivery to any person in this State in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with any provision of

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this chapter, the rights, duties, and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this chapter.

Section 456. AGE LIMIT. If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

Section 457. FRANCHISE DISABILITY INSURANCE LAW. Disability insurance on a franchise plan is hereby declared to be that form of disability insurance issued to:

(1) Three or more employees of any corporation, co-partnership, or individual employer or any governmental corporation, agency or department thereof; or

(2) Ten or more members, employees or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two years where such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance; where such persons with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association for its members, or by some designated person acting on behalf of such employer or association or union. The term "employees" as used herein may be deemed to include the officers, managers, employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

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GROUP AND BLANKET DISABILITY INSURANCE

Section 458. GROUP DISABILITY INSURANCE DEFINED; ELIGIBLE GROUPS. Group disability insurance is hereby declared to be that form of disability insurance covering groups of persons as defined below, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of such groups of persons, and issued upon the following basis:

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring employees of such employer for the benefit of persons other than the employer. The term "employees" as used herein shall be deemed to include the officers, managers, and employees of the employer, the individual proprietor or partner if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise. The term "employees" as used herein may include retired employees. A policy issued to insure employees of a public body may provide that the term "employees" shall include elected or appointed officials. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(2) Under a policy issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring members, employees, or employees of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employees" as used herein may include retired employees.

(3) Under a policy issued to the trustees of a fund established by two (2) or more employers in the same or related industry or by one or more labor unions or by one or more employers and one or more labor unions or by an association as defined in subdivision (2) above, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions or of such association, or employees of members of such association, for the benefit of persons other than the employers or the unions or such association. The term "employees" as used herein may include the officers, managers and employees of the employer, and the individual proprietor or partners if the employer is an

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individual proprietor or partnership. The term “employees” as used herein may include retired employees. The policy may provide that the term “employees” shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(4) Under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this State to insure any class or classes of individuals that could be insured under such group life policy.

(5) Under a policy issued to cover any other substantially similar group which, in the discretion of the Commissioner, may be subject to the issuance of a group disability policy or contract.

(6) Any group disability policy which contains provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, nursing, medical, or surgical services for members of the family or dependents of a person in the insured group may provide for the continuation of such benefit provisions, or any part or parts thereof, after the death of the person in the insured group.

Section 459. REQUIRED PROVISIONS. Each such group disability insurance policy shall contain in substance the following provisions:

(1) A provision that, in the absence of fraud, all statements made by applicants or the policyholders or by an insured person shall be deemed representations and not warranties, and that no statement made for the purpose of effecting insurance shall void such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary.

(2) A provision that the insurer will furnish to the policyholder for delivery to each employee or member of the insured group, a statement in summary form of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit.

(3) A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

Section 460. DIRECT PAYMENT OF HOSPITAL, MEDICAL SERVICES. Any group disability policy may on request by the group policyholder provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option be

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paid directly to the hospital or person rendering such services. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

Section 461. **BLANKET DISABILITY INSURANCE DEFINED.** Blanket disability insurance is hereby declared to be that form of disability insurance covering groups of persons as enumerated in one of the following subdivisions:

(1) Under a policy or contract issued to any common carrier or to any operator, owner or lessee of a means of transportation, who or which shall be deemed the policyholder, covering a group of persons who may become passengers defined by reference to their travel status on such common carrier or such means of transportation.

(2) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering any group of employees, dependents or guests, defined by reference to specified hazards incident to an activity or activities or operations of the policyholder.

(3) Under a policy or contract issued to a college, school or other institution of learning, a school district or districts, or school jurisdictional unit, or to the head, principal or governing board of any such educational unit, who or which shall be deemed the policyholder, covering students, teachers or employees.

(4) Under a policy or contract issued to any religious, charitable, recreational, educational, or civic organization, or branch thereof, which shall be deemed the policyholder covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(5) Under a policy or contract issued to a sports team, camp or sponsor thereof, which shall be deemed the policyholder, covering members, campers, employees, officials or supervisors.

(6) Under a policy or contract issued to any volunteer fire department, first aid, civil defense, or other such volunteer organization, which shall be deemed the policyholder, covering any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(7) Under a policy or contract issued to a newspaper or other publisher, which shall be deemed the policyholder, covering its carriers.

(8) Under a policy or contract issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, covering any group of members

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or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(9) Under a policy or contract issued to cover any other risk or class of risks which, in the discretion of the Commissioner, may be properly eligible for blanket disability insurance. The discretion of the Commissioner may be exercised on an individual risk basis or class of risks, or both.

Section 462. REQUIRED PROVISIONS. Any insurer authorized to write disability insurance in this state shall have the power to issue blanket disability insurance. No such blanket policy may be issued or delivered in this state unless a copy of the form thereof shall have been filed in accordance with section 321. Every such blanket policy shall contain provisions which in the opinion of the Commissioner are at least as favorable to the policyholder and the individual insured as the following:

(1) A provision that the policy, including endorsements and a copy of the application, if any, of the policyholder and the persons insured shall constitute the entire contract between the parties, and that any statement made by the policyholder or by a person insured shall in absence of fraud, be deemed a representation and not a warranty, and that no such statements shall be used in defense to a claim under the policy, unless contained in a written application. Such person, his beneficiary, or assignee, shall have the right to make written request to the insurer for a copy of such application and the insurer shall, within 15 days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action based upon or involving any statements contained therein.

(2) A provision that written notice of sickness or of injury must be given to the insurer within twenty (20) days after the date when such sickness or injury occurred. Failure to give notice within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(3) A provision that the insurer will furnish to the policyholder such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished before the expiration of fifteen (15) days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of the policy as to proof of loss upon submitting within the time fixed in the policy for filing proof of loss, written proof covering the

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occurrence, character and extent of the loss for which claim is made.

(4) A provision that in the case of claim for loss of time for disability, written proof of such loss must be furnished to the insurer within thirty (30) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of such disability must be furnished to the insurer at such intervals as the insurer may reasonably require, and that in the case of claim for any other loss, written proof of such loss must be furnished to the insurer within ninety (90) days after the date of such loss. Failure to furnish such proof within such time shall not invalidate nor reduce any claim if it shall be shown not to have been reasonably possible to furnish such proof and that such proof was furnished as soon as was reasonably possible.

(5) A provision that all benefits payable under the policy other than benefits for loss of time will be payable immediately upon receipt of due written proof of such loss, and that, subject to due proof of loss, all accrued benefits payable under the policy for loss of time will be paid not later than at the expiration of each period of thirty (30) days during the continuance of the period for which the insurer is liable, and that any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of such proof.

(6) A provision that the insurer at its own expense, shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make any autopsy in case of death where it is not prohibited by law.

(7) A provision that no action at law or in equity shall be brought to recover under the policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action shall be brought after the expiration of three (3) years after the time written proof of loss is required to be furnished.

Section 463. APPLICATION AND CERTIFICATES NOT REQUIRED. An individual application shall not be required from a person covered under a blanket disability policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate.

Section 464. INSURABLE INTEREST — FACILITY OF PAYMENT. All benefits under any blanket disability policy shall be payable to the person insured, or to his employer, or to his designated beneficiary or beneficiaries, or to his estate; except,

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that if the person insured be a minor or mental incompetent, such benefits may be made payable to his parent, guardian, or other person actually supporting him; or if the entire cost of the insurance has been borne by the employer such benefits may be made payable to the employer. Provided, however, that the policy may provide that all or any portion of any indemnities provided by such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

Sections 465-481 Reserved

CHAPTER 21

PROPERTY INSURANCE CONTRACTS

Section 482. INSURANCE OF BUILDING IN NAME OF LESS THAN ALL OWNERS. As to every insurance contract insuring any dwelling or other building and written in the name of less than all of the joint owners or tenants in common, with or without survivorship, if such joint tenants or tenants in common are husband and wife it shall not be a defense against liability under the policy that all the joint owners or tenants in common were not named as the insured therein, nor will the amount due in event of loss be diminished on such account unless by special endorsement of the policy the insurer's liability is limited to the interest of the named insured.

Section 483. INDUSTRIAL FIRE INSURANCE POLICIES.

(1) Industrial fire insurance policies are policies issued by insurers writing fire and allied lines of insurance through agents operating on the debit agency system, under which system a weekly or monthly collection percentage is paid based either on actual weekly or monthly premium collections or weekly or monthly increases of premium collections.

(2) No such policy, or such policies, covering any of the same subjects of insurance shall be issued which provides indemnity exceeding the limits set by the Commissioner as to any one loss resulting from any or all of the hazards or perils insured against.

(3) No such policy shall be issued except upon a monthly or weekly premium payment basis. No discount for premiums paid in advance shall exceed five percent (5%) for premiums paid for six (6) months in advance, or ten percent (10%) for premiums paid for twelve (12) months in advance. In no event shall premiums be collected for more than twelve (12) months in advance.

CHAPTER 22

CASUALTY INSURANCE CONTRACTS

Section 484. INSURER'S LIABILITY, WHEN ABSOLUTE. As to every contract of insurance made between an insurer and any insured, by which such insured is insured against loss or damage on account of the bodily injury or death by accident of any person, for which loss or damage such insured is responsible, whenever a loss occurs on account of a casualty covered by such contract of insurance, the liability of the insurer shall become absolute, and the payment of the loss shall not depend upon the satisfaction by the insured of a final judgment against him for loss, or damage, or death, occasioned by the casualty. No such contract of insurance shall be cancelled or annulled by any agreement between the insurer and the insured after the insured has become responsible for such loss or damage, and any such cancellation or annulment shall be void.

Section 485. REMEDY OF INJURED PARTY AFTER JUDGMENT. Upon the recovery of a final judgment against any person, firm or Corporation by any person, including administrators or executors, for loss or damage on account of bodily injury or death, or for loss or damage to property, if the defendant in such action was insured against the loss or damage at the time when the right of action arose, the judgment creditor shall be entitled to have the insurance money provided for in the contract of insurance between the insurer and the defendant, applied to the satisfaction of the judgment, and if the judgment is not satisfied within thirty (30) days after the date when it is rendered, the judgment creditor may proceed in equity against the defendant and the insurer to reach and apply the insurance money to the satisfaction of the judgment.

Section 485.1. CANCELLATION-NONRENEWAL. As used in this Act:

(a) "Policy of automobile liability insurance" means a policy delivered or issued for delivery in this state, insuring a natural person as named insured, or one or more related individuals resident of the same household, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station type that is not used as a public or livery conveyance for passengers, nor rented to others, or

2. Any other four-wheel motor vehicle with a load capacity of 1500 pounds or less which is not used in the occupation, profession or business of the insured; provided, however, that this

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Act shall not apply: (1) to policies of automobile liability insurance issued under an automobile assigned risk plan, nor (2) to any policy insuring more than four automobiles, nor (3) to any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards, and, provided further, that this Act shall apply only to that portion of an automobile liability policy insuring against bodily injury and property damage liability and to the provisions therein, if any, relating to medical payments and uninsured motorists' coverage.

(b) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy of automobile liability insurance or any installment of such premium, whether the premium is payable directly to the insurer or its agent, or indirectly under any premium finance plan or extension of credit.

Section 485.2 (A) No notice of cancellation of a policy of automobile liability insurance shall be effective unless it is based on one or more of the following reasons:

(a) non-payment of premium; or

(b) the policy was obtained through a material misrepresentation; or

(c) any insured violated any of the terms and conditions of the policy; or

(d) the named insured failed to disclose fully his motor vehicle accidents and moving traffic violations for the preceding 36 months if called for in the application; or

(e) the named insured failed to disclose in his written application or in response to inquiry by his broker or by the insurer or its agent information necessary for the acceptance or proper rating of the risk; or

(f) any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or

(g) failure to maintain membership in any group or organization when such membership is a prerequisite to the purchase of such insurance; or

(h) the named insured or any other operator who either resides in the same household or customarily operates an automobile insured under such policy:

1. has within the 36 months prior to the notice of cancellation had his driver's license under suspension or revocation; or

2. is or becomes subject to epilepsy or heart attacks, and such individual does not produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle safely; or

3. has an accident record, conviction record (criminal or traffic), physical, mental, or other condition which is such that his

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operation of an automobile might endanger the public safety; or

4. has within the 36 months prior to the notice of cancellation been addicted to the use of narcotics or other drugs; or

5. uses alcoholic beverage to excess; or

6. has been convicted, or forfeited bail, during the 36 months immediately preceding the notice of cancellation, for:

a. Any felony; or

b. criminal negligence resulting in death, homicide, or assault arising out of the operation of a motor vehicle; or

c. operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or

d. being intoxicated while in, or about an automobile, or while having custody of an automobile; or

e. leaving the scene of an accident without stopping to report; or

f. theft or unlawful taking of a motor vehicle; or

g. making false statements in an application for a driver's license; or

7. has been convicted of, or forfeited bail for, three or more violations within the 36 months immediately preceding the notice of cancellation, of any law, ordinance, or regulation limiting the speed of motor vehicle laws of any state, violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or different offenses.

(i) the insured automobile is:

1. so mechanically defective that its operation might endanger public safety; or

2. used in carrying passengers for hire or compensation, provided however that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation; or

3. used in the business of transportation of flammables or explosives; or

4. an authorized emergency vehicle; or

5. changed in shape or condition during the policy period so as to increase the risk substantially; or

6. subject to an inspection law and has not been inspected or, if inspected, has failed to qualify.

(B) This section shall not apply to any policy of automobile liability insurance which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

Section 485.3. No notice of cancellation of a policy to which Section 2 applies shall be effective unless mailed or delivered by the insurer to the named insured at least 20 days prior to the effective date of cancellation, provided, however, that where

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cancellation is for nonpayment of premium at least 10 days' notice of cancellation accompanied by the reason therefor shall be given. Unless the reason or reasons accompany or are included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than 15 days prior to the effective date of cancellation, the insurer will specify the reason or reasons for such cancellation.

Section 485.4. Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

Section 485.5 Proof of mailing of notice of cancellation or of reasons for cancellation, to the named insured at the address shown in the policy, shall be sufficient proof of notice.

Section 485.6. When a policy is cancelled, other than for non-payment of premium the insurer shall notify the named insured of his possible eligibility for insurance through the automobile assigned risk plan. Such notice shall accompany or be included in the notice of cancellation and shall state that such notice of availability of the automobile assigned risk plan is given pursuant to this Act.

Section 485.7. Where the reason or reasons for cancellation do not accompany or are not included in the notice of cancellation, the insurer shall upon written request of the named insured mailed or delivered to the insurer not less than 15 days prior to the effective date of cancellation, specify in writing the reason or reasons for such cancellation. Such reasons shall be mailed or delivered to the named insured within five days after non-payment of premium. This section shall apply only to a cancellation to which Section 2 applies.

Section 485.8. There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation, for any statement made by any of them in any written notice of cancellation, for the providing of information pertaining thereto, or for statements made or evidence submitted at the hearings conducted in connection therewith.

Section 485.9. Nothing in this Act shall apply to nonrenewal.

CHAPTER 23

SURETY INSURANCE CONTRACTS

Section 486. SCOPE OF CERTAIN SECTIONS OF THIS CHAPTER. Sections 486 through 493 shall not apply to any bond or undertaking which is not by law required to be approved by any state, county, municipal, precinct, township, district, or other like office, officers, commissions, boards, and similar governing bodies, or by any judge, clerk or register of any court of this State, or to insurers engaged only in the business of becoming sureties on any such bond or undertaking.

Section 487. MAY BE SOLE SURETY ON BONDS. Except as provided in section 489, whenever any person or corporation is or may be required or permitted to execute bond, or other undertaking, of whatsoever nature, with surety or sureties for the faithful discharge or performance of the duties of any state, county, municipal, precinct, township, district, or corporate office or position, or of any position of public or private trust or employment, for the faithful discharge or performance of any duty, or for the doing or not doing of anything in such bond or undertaking specified; or when any person or corporation is required or permitted to execute any bond or other undertaking, of whatsoever nature, with surety or sureties, in any judicial proceeding, or as guardian, executor, administrator, receiver, assignee, or trustee, the court, officer or person having authority, or charged with the duty of approving such bond or undertaking, may, if such bond or undertaking is otherwise sufficient, approve the same when executed by a corporation having the power or authority under its charter to become surety on such bond or undertaking, as surety, and having complied with the provisions of this code; and the execution by any such corporation, as surety, of any such bond or undertaking shall be, in all respects, upon the approval and acceptance of such bond, a full and complete compliance with the requirements of any law, ordinance, rule, or regulation requiring that such bond or undertaking shall be executed by one surety, or by one or more sureties, or that such surety or sureties shall be residents of the state, or any county therein, or shall be householders or freeholders, or either or both, or shall possess any other qualification.

Section 488. MUTUAL OR RECIPROCAL SURETY INSURERS. An authorized mutual or reciprocal surety insurer which has and maintains a surplus over and above all of its liabilities of five hundred thousand dollars (\$500,000.00), upon meeting all of the requirements of this code, except as to capital stock, may

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become and be accepted as sole surety on bonds or undertakings required or permitted by the laws of this State, or by the charters, ordinances, rules and regulations of any county, municipal corporation, board, body, organization or public officer; provided, that any such bond or undertaking executed by such insurer shall be nonassessable and shall not provide for any contingent liability.

Section 489. NOT SOLE SURETY ON TREASURER'S BOND. No such corporation or insurer shall, however, be accepted as sole surety on the bond of the State Treasurer; but may become and be accepted as a co-surety with other persons, or with other authorized surety insurers upon such bond, and in such event its property or credit shall not be estimated to exceed one hundred thousand dollars (\$100,000.00).

Section 490. ADDITIONAL BOND UPON INSOLVENCY OF SURETY. If the authority of a surety insurer to transact business in this state is revoked or otherwise terminated upon the ground that the insurer is insolvent or cannot be safely accepted as surety upon bonds and undertakings mentioned in section 487, it shall be the duty of any officer in this state authorized to approve official bonds, upon receiving the circular letter from the Commissioner as provided for in section 67(3) of this code, or upon otherwise being informed of such revocation or termination, to require the principal in any such bond upon which such insurer has become surety to give an additional bond as provided by law.

Section 491. VENUE OF SUITS ON BONDS. Any official bond or undertaking executed by a surety insurer may be sued on in the county of the residence of the principal, or in which he resided at the time of the execution of the bond or undertaking; but suits by the State shall be brought in Montgomery County.

Section 492. INSURER ESTOPPED TO DENY POWER. No corporation or insurer having signed any such official bond or undertaking shall be permitted to deny its corporate or other power to execute such instrument, or incur such liability in any proceedings to enforce liability against the insurer thereunder.

Section 493. HAS SAME RIGHTS AS OTHER SURETIES. Such an insurer as surety on any official bond, undertaking, or obligation is entitled to all the rights and remedies of other sureties on such instruments; and any insurer becoming surety on any bond or undertaking, as authorized by this chapter, shall have the same right to be relieved from further liability thereon, or to require the principal to give new or additional bonds or undertakings, as is conferred by law upon the other sureties on like bonds or undertakings.

CHAPTER 24

TITLE INSURANCE

Section 494. INJUNCTION AS TO CERTAIN VIOLATIONS. If from any examination of a title insurer the Commissioner finds that the insurer is violating any of the provisions of section 42, title 46, Code of Alabama of 1940, the Commissioner shall so certify his findings in writing to the Attorney General, and the Attorney General shall forthwith bring an action in a court of competent jurisdiction in the State of Alabama to permanently enjoin the commission of such acts by the insurer; and if the insurer violates any of the provisions of such an injunction the Attorney General shall forthwith bring an action in such court to revoke the corporate charter of such insurer, if a domestic corporation.

CHAPTER 25

ORGANIZATION AND CORPORATE PROCEDURES OF
STOCK AND MUTUAL INSURERS

Section 495. SCOPE OF CHAPTER. This chapter shall apply only to domestic stock insurers and domestic mutual insurers; except that:

(1) Sections 500 through 510, relative to sale of securities or other financing of insurers or insurance operations, and section 530 (2) (nonassessable policies, mutual insurers) shall also apply as to foreign and alien insurers.

(2) This chapter shall be applicable as to mutual aid associations as stated in chapter 26 and as to fraternal benefit societies as stated in chapters 30 and 31 of this code.

Section 496. "STOCK" INSURER DEFINED. A "stock" insurer is an incorporated insurer with capital divided into shares and owned by its stockholders.

Section 497. "MUTUAL" INSURER DEFINED. A domestic "mutual" insurer is an incorporated insurer without capital stock, and the governing body of which is elected as provided in this chapter.

Section 498. APPLICABILITY OF GENERAL CORPORATION STATUTES. The applicable statutes of this State relating to the powers and procedures of domestic private corporations formed for profit shall apply to domestic stock insurers and to domestic mutual insurers, except where in conflict with the express provisions of this code and the reasonable implications of such provisions.

Section 499. POWER TO INDEMNIFY DIRECTORS, OFFICERS, ETC. Without limiting the powers and authorities of domestic insurers, as hereinabove provided, a domestic insurer shall have the power and is hereby authorized to indemnify any director, officer or employee, or former director or officer or employee of the corporation, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of

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(a) The executed and acknowledged triplicate originals of the proposed articles of incorporation of any proposed domestic insurer, a certified copy of the articles of incorporation of any foreign insurer or of any other corporation proposing to sell its securities as referred to in section 500, and copy of any syndicate, association, firm, partnership, organization or other similar agreement, by whatever name called, if funds for any of the purposes referred to in section 500 are to be secured through the sale of any security, interest, or right in or relative to such syndicate, association, firm, partnership, or organization and, if the proposed insurer is a domestic reciprocal insurer, an original and duplicate copy of the proposed power of attorney and of any other agreements proposed as affecting investors, subscribers, the attorney in fact, and the insurer or proposed insurer.

(b) Original and duplicate copy of any proposed bylaws;

(c) Copy of any security, receipt, or certificate proposed to be issued and copy of the proposed application or subscription agreement therefor;

(d) Copy of any insurance contract proposed to be offered by a proposed domestic mutual or reciprocal insurer, and copy of application therefor;

(e) Copy of any prospectus, advertising, or sales literature proposed to be used;

(f) Copy of proposed form of any escrow agreement required; and

(g) Irrevocable appointment of the Commissioner as process agent to receive service of process issued in this state arising out of any transactions under a solicitation permit, if issued, the appointment to be on a form as prescribed and furnished by the Commissioner.

(3) Deposit with the Commissioner the fees required under section 76 and otherwise by law to be paid for the application, for filing of the articles of incorporation of an insurer, for filing the subscribers' agreement and attorney in fact agreement if the proposed insurer is a reciprocal, and for the solicitation permit, if granted.

(4) In lieu of a special filing of the information or part thereof called for in subsection (1), above, the Commissioner may, in his discretion, accept a duplicate copy of any filing made with any other State or Federal agency relative to the same offering or proposed offering.

Section 502. GRANTING, DENIAL OF PERMIT. (1) The Commissioner shall expeditiously examine the application for a solicitation permit and make such investigation relative thereto as he deems necessary. Subject to subsection (2), below, if he finds that

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duty to the corporation; and to make any other indemnification that shall be authorized by the articles of incorporation or by any by-law or resolution adopted by the shareholders after notice, or as may be authorized under any other statute of this State dealing with the right of a corporation to indemnify officers, directors and employees or to purchase insurance for such indemnification.

Section 500. PERMIT REQUIRED TO ACQUIRE FUNDS FOR INSURANCE CORPORATION. (1) No person forming or proposing to form in this state, or secure funds in this state for the financing of an insurer, or insurance holding corporation, or stock corporation to finance an insurer, or corporation to be attorney in fact for a reciprocal insurer, or a syndicate, association, firm, partnership, or organization for any such purposes, whether domestic or foreign, shall advertise, or solicit or receive any funds, subscription, or membership on account thereof in this state, except as authorized by a currently effective solicitation permit issued by the Commissioner, in addition to complying with other applicable provisions of the law.

(2) Any person violating this section shall upon conviction thereof be subject to a fine of not more than ten thousand dollars (\$10,000.00) or imprisonment for not more than ten (10) years, or by both such fine and imprisonment.

(3) Any insurer violating this section, in addition to any other penalties provided by law, shall be forever barred from being authorized to transact insurance in this state.

Section 501. APPLICATION FOR PERMIT — FILING PROPOSED ARTICLES AND DOCUMENTS. To apply for a solicitation permit the person shall:

(1) File with the Commissioner, a request therefor showing:

(a) Name, type, and purpose of insurer, corporation, or syndicate, association, firm, partnership or organization formed or proposed to be formed;

(b) Names, addresses, business background and qualifications of each person associated or to be associated in the enterprise, or in the formation of the proposed insurer, corporation, syndicate, association, firm, partnership or organization;

(c) Full disclosure of the terms of all pertinent understandings and agreements existing or proposed among persons so associated; and copies of all such agreements, relative to the proposed financing of insurer, corporation, syndicate, association, firm, partnership or organization, or the formation thereof;

(d) The plan according to which solicitations are to be made;

(e) Such additional information as the Commissioner may reasonably require.

(2) Submit to the Commissioner:

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(a) The application is complete; and
 (b) The documents therewith filed are proper in form, and that

(c) The proposed articles of incorporation of any proposed domestic insurer comply with this code and are not in conflict with the constitution and laws of the United States or of this state,

He shall give notice to the applicant that he will approve and file the articles of incorporation (if a proposed corporation) and issue a solicitation permit, stating the terms to be contained therein, upon the filing of any bond required by section 506 or section 512.

(2) If the Commissioner does not so find, or finds that any proposed sale of securities would be or tend to be fraudulent or inequitable as to present or proposed security holders or investors, or if he finds that any of the individuals associated or to be associated in the insurer, corporation, syndicate, association, partnership, firm, organization or financing are not of good character, or that the insurer if formed, or if an applicant for a certificate of authority, would not be able to qualify for a certificate of authority by reason of the provisions of section 51(3) of this code, he shall give notice to the applicant that a solicitation permit will not be granted, stating the grounds therefor, return any proposed articles of incorporation to the applicant, and refund to the applicant all sums so deposited except the fee for application for a solicitation permit.

Section 503. SOLICITATION PERMIT; TERMS; COMPLIANCE. (1) Upon the filing of any bond required by section 506 or section 512, after notice by the Commissioner provided for in section 502 (1), or upon his decision to grant a solicitation permit if such a bond is not so required, the Commissioner shall issue to the applicant, or to the newly formed corporation if the application is on behalf of a newly formed incorporated domestic insurer, a solicitation permit. Every solicitation permit issued by the Commissioner shall contain provisions in substance as follows:

(a) State the securities or other rights or interests for which subscriptions are to be solicited, the number, classes, par value, and selling price thereof, or identify the insurance contract or contracts for which applications and advance premiums or deposits of premium are to be solicited in the case of mutual or reciprocal insurers.

(b) Require that any particular class of securities, rights, and interests proposed to be sold or offered under the permit shall be so sold and offered at the same price to all parties; and that if more than one class of securities, rights, or interests are to be offered, each subscriber shall have the right to acquire some of

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each such class in accordance with such reasonable combination of classes into subscription units as may be approved by the Commissioner.

(c) Require that all such subscriptions and premiums shall be payable only in lawful money of the United States of America, except where stock or other securities are to be issued in exchange for securities or rights thereto under a plan approved by the Commissioner, of merger, consolidation, recapitalization, or re-financing of an insurer or other corporation.

(d) Limit the portion of funds received on account of stock or syndicate, association, partnership, firm, or organization subscriptions, which may be used for promotion, securities sales, and organization expenses to such amount as the Commissioner deems to be reasonably adequate under the proposed plan of solicitation, but in no event to exceed fifteen percent (15%) of such funds as and when the funds are actually received.

(e) If to be a mutual or reciprocal insurer, limit the portion of funds received on account of applications for insurance which may be used for promotion, sales, or organization expenses to a reasonable commission upon such funds, giving consideration to the kind of insurance and policy involved and to the costs incurred by insurers generally in the production of similar business; and provide that no such commission shall be deemed to be earned or paid until the insurer has received its certificate of authority and the policies applied for, upon which the commission is to be based, have been actually issued and delivered.

(f) Prohibit the granting of any options to subscribe to, buy, or acquire in any way any securities, rights, or interests, other than options made a part of convertible securities constituting the proposed offering, in whole or in part, and made available on a uniform basis to all subscribers to any such securities, rights, or interests.

(g) Prohibit, by any promoter or other person associated or to be associated in the proposed insurer, corporation, syndicate, firm, partnership, or organization, or in solicitations under the permit, the resale or transfer of his interest in any security, right, or interest of the kind proposed to be offered under the solicitation permit, or any other interest or right which he may have in or as to the same entity, prior to the completion of sale of all securities, rights, and interests proposed to be offered or sold under the solicitation permit. In connection with this provision the Commissioner may, in his discretion, require that any security, right, or interest the resale or transfer of which is herein prohibited, shall be deposited and held in escrow pending the completion of the sales or offering under the solicitation permit.

(h) State in bold face type that the permittee must comply

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with Title 53, Code of Alabama of 1940, if such statute is applicable, and with other applicable laws of the State of Alabama.

(i) That the permit shall expire not more than two (2) years from its date of issue, unless earlier terminated by the Commissioner; if, however, in connection with a proposed offering of securities by a domestic insurer or corporation a registration thereof or filing with respect thereto is required by law to be made with any Federal agency, the effective period of the permit may, in the Commissioner's discretion, commence upon the effective date of such registration or filing if subsequent to the date of issuance of the permit.

(j) Contain such other reasonable conditions relative to accounting, reports, deposits, or other matters consistent with the provisions of this chapter as the Commissioner deems advisable for the protection of existing or prospective investors.

(2) The holder of the solicitation permit, and its directors, officers, employees, agents, and representatives shall comply with the terms of the permit.

Section 504. PERMIT AS INDUCEMENT. The granting of a solicitation permit is permissive only and shall not constitute an endorsement by the Commissioner of any person or thing related to any such insurer, corporation, syndicate, association, partnership, firm, organization, or financing, and the existence of the permit shall not be advertised or used as an inducement in any solicitation. The Commissioner shall place the substance of this section in bold face type at the top of each solicitation permit issued by him.

Section 505. MODIFICATION, REVOCATION OF PERMIT.

(1) The Commissioner may for cause modify a solicitation permit theretofore issued; or may after a hearing revoke any solicitation permit for violation of any provision of this code, or of the terms of the permit, or of any proper order of the Commissioner, or for misrepresentation in the offering or sale of securities or policies under the permit.

(2) The Commissioner shall revoke the solicitation permit if requested in writing by a majority of the syndicate members, or by a majority of the incorporators and two-thirds of the subscribers to stock or applicants for insurance in the proposed incorporated insurer or corporation, or if he is so requested by a majority of the subscribers of a proposed reciprocal insurer.

Section 506. BOND FOR SOLICITATION PERMIT. (1) Except as to proposed domestic insurers which are subject to the requirements of section 512 of this chapter, the Commissioner shall not issue a solicitation permit until the applicant therefor has

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filed with him a corporate surety bond in the penalty of fifteen thousand dollars (\$15,000), in favor of the State of Alabama and for the use and benefit of the State and of proposed Alabama investors in and creditors of the proposed organization.

(2) The bond shall be conditioned upon the payment of costs incurred by the State in event of any legal proceedings for liquidation or dissolution of the proposed organization before completion of organization or in event a certificate of authority is not granted; and upon a full accounting for funds received until the proposed insurer has been granted its certificate of authority, or until the proposed corporation, syndicate, organization or financing has been completed as defined in the solicitation permit.

(3) In lieu of filing such bond, the applicant may deposit with the State Treasurer through the Commissioner fifteen thousand dollars (\$15,000) in cash or its equivalent or in United States government bonds at par value, to be held in trust under the same conditions as required for the bond.

(4) The Commissioner may, in his discretion, waive the requirement for a bond or deposit in lieu thereof if the solicitation permit provides that:

(a) The proposed securities are to be distributed solely and finally to those few persons who are the active promoters intimate to the formation of the insurer, or other corporation, syndicate, or organization, or

(b) The securities are to be issued in connection with subsequent financing as provided in section 510.

(5) Any bond filed or deposit or remaining portion thereof held under this section shall be released and discharged upon settlement or termination of all liabilities against it.

Section 507. SOLICITORS' LICENSES. Solicitation for sale of securities under a solicitation permit shall be made only by individuals licensed as securities salesmen pursuant to the provisions of the Alabama securities act.

Section 508. ESCROW OF FUNDS. (1) All funds received in Alabama pursuant to a solicitation permit, other than advance premiums for insurance which are subject to section 514, shall by the permit holder be deposited and held in escrow in a bank or trust company located in this state under an agreement approved by the Commissioner.

(2) No part of such funds shall be withdrawn from such deposit, except:

(a) For the payment of promotion, sales, and organization expenses as authorized by the solicitation permit, and funds for such purposes may be withheld from the deposit; or

(b) For the purpose of making any deposit with the

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Commissioner required for the issuance of a certificate of authority to an insurer; or

(c) If the proposed organization is not to be an insurer, upon completion of payments on securities subscriptions made under the solicitation permit and deposit or appropriation of such funds to the purposes specified in the solicitation permit; or

(d) For making of refunds as provided in section 509.

(2) When the Commissioner has issued a certificate of authority to an insurer any such funds remaining in escrow for its account shall be released to the insurer.

(3) The Commissioner may waive compliance with this section as to funds required to be deposited in escrow or trust in similar institutions and for similar purposes as hereinabove set forth, pursuant to any other law of this state.

Section 509. FAILURE TO COMPLETE OR QUALIFY. The Commissioner shall withdraw all funds held in escrow under section 508, and refund to securities subscribers or purchasers, all sums paid in on securities subscriptions, less that part of such sums paid in as has been allowed and used for promotion, sales and organization expenses, and shall dissolve the proposed domestic insurer, corporation, syndicate or organization if:

(1) It fails to complete its organization or financing and obtain full payment for subscriptions, and, if to be an insurer, it fails to secure its certificate of authority, all before expiration of the solicitation permit; or

(2) The Commissioner revokes the solicitation permit.

Section 510. SUBSEQUENT FINANCING. (1) No insurer, or insurance holding corporation, or stock corporation for financing operations of a mutual insurer, or attorney in fact corporation or a reciprocal insurer, or any other type of organization existing for the same purpose, after (a) it has received a certificate of authority, if an insurer, in this or any other state, or (b) it has completed its initial organization and financing, if a corporation, syndicate, or other organization other than an insurer, shall in this state solicit or receive funds in exchange for its securities, other than when combining and selling, for the account of its stockholders entitled thereto, fractional shares to which they become entitled through a stock dividend to existing stockholders, until it has applied to the Commissioner for, and has been granted, a solicitation permit.

(2) The Commissioner shall issue such a permit unless he finds:

(a) That the funds proposed to be secured are excessive in amount for the purposes intended, or

(b) That the proposed securities or the manner of their distribution are inequitable, or

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(c) That the offering or issuance of the securities would be unfair to existing or prospective holders of securities of the same insurers, corporation, syndicate, or organization.

(3) Any such solicitation permit granted by the Commissioner shall be for such duration, and shall contain such terms and be issued upon such conditions as the Commissioner may reasonably specify or require for the protection of existing or proposed policyholders or investors.

(4) This section is supplemental to other laws of this state applicable to the sale of securities.

Section 511. INITIAL QUALIFICATIONS — DOMESTIC MUTUALS. (1) When newly organized, a domestic mutual insurer may be authorized to transact any one of the kinds of insurance listed in the schedule contained in subsection (2) of this section.

(2) When applying for an original certificate of authority, the insurer must be otherwise qualified therefor under this code, and must have received and accepted bona fide applications as to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in cash the full premium therefor at a rate not less than that usually charged by other insurers for comparable coverages, must have surplus funds on hand and deposited as of the date such insurance coverages are to become effective, or, in lieu of such applications, premiums and surplus, may deposit surplus, all in accordance with that part of the following schedule which applies to the one kind of insurance the insurer proposes to transact:

(a) Kind of insurance	(b) Minimum no. of applicants accepted	(c) Minimum no. of subjects covered	(d) Minimum premium collected	(e) Minimum amount of insurance each subject	(f) Maximum amount of insurance each subject (v)	(g) Deposit of minimum surplus funds (vi)	(h) Deposit of surplus in lieu (vi)
Life (i)	500	500	annual	\$1000	\$2500	\$50,000	\$100,000
Disability (ii)	500	500	quarterly	\$10 (weekly indem.)	\$25 (weekly indem.)	\$50,000	\$100,000
Property (iii)	100	250	annual	\$1000	\$3000	\$100,000	\$200,000
Casualty (iv)	250	500	annual	\$1000	\$10,000	\$150,000	\$200,000
Casualty with workmen's compensation	250	1500	quarterly	\$1000	\$10,000	\$200,000	\$300,000

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The following provisos are respectively applicable to the foregoing schedule and provisions as indicated by like roman numerals appearing in such schedule:

(i) No group insurance or term policies for terms of less than ten (10) years shall be included.

(ii) No group, blanket or family plans of insurance shall be included. In lieu of weekly indemnity a like premium value in medical, surgical, and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed twenty-five hundred (\$2,500.00) dollars.

(iii) Only insurance of the owner's interest in real property may be included.

(iv) Must include insurance of legal liability for bodily injury and property damage, to which the maximum and minimum insured amounts apply.

(v) The maximums provided for in this column (f) are net of applicable reinsurance.

(vi) The deposit of surplus in the amount specified in columns (g) and (h) must thereafter be maintained unimpaired. The deposit is subject to the provisions of chapter 6 of this code (administration of deposits).

Section 512. FORMATION OF MUTUAL INSURER — BOND. (1) Before soliciting any applications for insurance required under section 511 as qualification for the original certificate of authority, the incorporators of the proposed mutual insurer shall file with the Commissioner a corporate surety bond in the penalty of fifteen thousand dollars (\$15,000.00) in favor of the State of Alabama and for the use and benefit of the State and of applicant members and creditors of the corporation. The bond shall be conditioned as follows:

(a) Upon payment of any loss suffered by applicants who have cancelled or lapsed existing insurance policies due to misrepresentation by the incorporators or by persons soliciting such applications under authorization by the corporation, to the effect that the making of such application for insurance and prepayment of premiums in such proposed insurer provides insurance protection prior to issuance of a certificate of authority to such insurer by the Commissioner;

(b) That in event the corporation fails to complete its organization and secure a certificate of authority issued by the Commissioner within one year after the date of its certificate of incorporation, all premiums collected in advance from applicant members will be promptly returned to them, all other indebtedness of the corporation other than any compensation to directors, officers, or solicitors of insurance applications, will be paid, and

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for payment of costs incurred by the State in event of any legal proceedings for liquidation or dissolution of the corporation.

(2) In lieu of such a bond, the incorporators may deposit with the Commissioner fifteen thousand dollars (\$15,000.00) in cash or its equivalent, or in United States government bonds at par value, to be held in trust upon the same conditions as required for the bond.

(3) Any such bond filed or deposit or remaining portion thereof held under this section shall be released and discharged upon settlement and termination of all liabilities against it hereunder.

Section 513. APPLICATIONS FOR INSURANCE IN FORMATION OF MUTUAL INSURER. (1) Upon receipt of the Commissioner's approval of the bond or deposit as provided in section 512 the directors and officers of the proposed domestic mutual insurer may commence solicitation of such requisite applications for insurance policies as they may accept, and may receive deposits of premiums thereon.

(2) All such applications shall be in writing signed by the applicant, covering subjects of insurance resident, located or to be performed in this State.

(3) All such applications shall provide that:

(a) Issuance of the policy is contingent upon the insurer qualifying for and receiving a certificate of authority;

(b) No insurance is in effect unless and until the certificate of authority has been issued; and

(c) The prepaid premium or deposit, and membership or policy fee, if any, shall be refunded in full to the applicant if organization is not completed and the certificate of authority is not issued and received by the insurer before a specified reasonable date which date shall be not later than one year after the date of the certificate of incorporation.

(4) All qualifying premiums collected shall be in cash.

(5) Solicitation for such qualifying applications for insurance shall be by licensed agents of the corporation, and the Commissioner shall, upon the corporation's application therefor, issue temporary agent's licenses expiring on the date specified pursuant to subdivision (c) above to individuals qualified as for a resident agent's license except as to the taking or passing of an examination. The Commissioner may suspend or revoke any such license for any of the causes and pursuant to the same procedures as are applicable to suspension or revocation of licenses of agents in general under chapter 7 of this code.

Section 514. FORMATION OF MUTUALS – TRUST DEPOSIT OF PREMIUMS – ISSUANCE OF POLICIES. (1) All sums

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collected by a domestic mutual corporation as premiums or fees on qualifying applications for insurance therein shall be deposited in trust in a bank or trust company in this State under a written trust agreement approved by the Commissioner and consistent with this section and with section 513(3) (c). The corporation shall file an executed copy of such trust agreement with the Commissioner.

(2) Upon issuance to the corporation of a certificate of authority as an insurer for the kind of insurance for which such applications were solicited, all funds so held in trust shall become the funds of the insurer, and the insurer shall thereafter in due course issue and deliver its policies for which premiums had been paid and accepted. The insurance provided by such policies shall be effective as of the date of the certificate of authority or thereafter as provided by the respective policies.

Section 515. FORMATION OF MUTUALS – FAILURE TO QUALIFY. If the proposed domestic mutual insurer fails to complete its organization and to secure its original certificate of authority within one year from and after date of its certificate of incorporation, the corporation shall transact no further business, and the Commissioner shall return or cause to be returned to the persons entitled thereto all advance deposits or payments of premiums held in trust under section 514.

Section 516. ADDITIONAL KINDS OF INSURANCE, MUTUALS. A domestic mutual insurer, after being authorized to transact one kind of insurance, may be authorized by the Commissioner to transact such additional kinds of insurance as are permitted under section 53, while otherwise in compliance with this code and while maintaining unimpaired surplus funds in an amount not less than the amount of paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, subject further to the additional expendable surplus requirements of section 55 applicable to such a stock insurer.

Section 517. MEMBERSHIP IN MUTUALS. (1) Each policyholder of a domestic mutual insurer, other than of a reinsurance contract, is a member of the insurer with all rights and obligations of such membership, and the policy shall so specify.

(2) Any individual, or firm, or any public or private corporation, board or association in this State or elsewhere may make application, enter into agreements for and hold policies in any such mutual insurer. Any officer, stockholder, trustee or local representative of any such corporation, board, association or estate may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such

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representative capacity. The right of any corporation organized under the laws of this state to participate as a member of any such insurer is declared to be incidental to the purpose for which the corporation is organized and as much granted as the rights and powers expressly conferred.

(3) The right of certain governmental bodies or agencies of this State to become and be policyholders of mutual insurers shall be as provided by the laws of this state governing such bodies or agencies.

Section 518. BYLAWS OF MUTUAL. (1) A domestic mutual insurer shall have bylaws for the government of its affairs. The initial board of directors of a domestic mutual insurer shall adopt original bylaws, subject to the approval of the insurer's members at the next succeeding meeting. The members shall have power to make, modify and revoke bylaws.

(2) The bylaws shall provide:

(a) That each member is entitled to one vote upon each matter coming to a vote at meetings of members; or to more votes in accordance with a reasonable classification of members as set forth in the bylaws and based upon the amount of insurance in force, number of policies held or upon the amount of the premiums paid by such member, or upon other reasonable factors. A member shall have the right to vote in person or by his written proxy made not less than thirty (30) days prior to the meeting. No such proxy shall be made irrevocable or for longer than a period of three (3) years;

(b) For election of directors by the members and the number, qualifications, terms of office and powers of directors;

(c) The time, notice, quorum, and conduct of annual and special meetings of members and voting thereat. The bylaws may provide that the annual meeting shall be held at a place, date and time to be set forth in the policy and without giving other notice of such meeting;

(d) The number, designation, election, terms and powers and duties of the respective corporate officers;

(e) For deposit, custody, disbursement and accounting for corporate funds;

(f) For any other reasonable provisions customary, necessary or convenient for the management or regulation of its corporate affairs.

(3) The insurer shall promptly file with the Commissioner a copy, certified by the insurer's secretary, of its bylaws and of every modification thereof or addition thereto. The Commissioner shall disapprove any bylaw provision deemed by him to be unlawful, unreasonable, inadequate, unfair or detrimental to the proper interests or protection of the insurer's members or any

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class thereof. The insurer shall not, after receiving written notice of such disapproval and during the existence thereof, effectuate any bylaw provision so disapproved.

Section 519. DIRECTORS; NUMBER, ELECTION. (1) The affairs of every domestic insurer shall be managed by not less than three (3) directors, and at least one-third (1/3) of the directors shall be bona fide residents of this state.

(2) Directors must be elected by the members or stockholders of a domestic insurer at the annual meeting of stockholders or members. Directors may be elected for terms of not more than five (5) years each and until their successors are elected and have qualified, and if to be elected for terms of more than one (1) year the insurer's bylaws shall provide for a staggered term system under which the terms of a proportionate part of the members of the board of directors will expire on the date of each annual meeting of stockholders or members.

(3) If so provided in the insurer's bylaws, a director of a stock insurer shall be a stockholder thereof, and a director of a mutual insurer shall be a policyholder thereof.

Section 520. REMOVAL OF DIRECTOR — VACANCIES. (1) At a special meeting of stockholders or members called for that purpose, any director of a stock or mutual insurer may be removed from office by an affirmative vote of stockholders or members holding in the aggregate a majority of the voting power of all stockholders or members of an insurer entitled to vote at an election of directors. If the board of directors or any member thereof is so removed, new directors may be elected at the same meeting.

(2) Vacancies in the board of directors may be filled by the remaining members of the board, and each person so elected shall be a director until his successor is elected by the stockholders or members at the next annual meeting of stockholders or members, or at any special meeting of stockholders or members called for that purpose and held prior thereto.

Section 521. CORRUPT PRACTICES — PENALTY. No person shall buy or sell or barter a vote or proxy, relative to any meeting of stockholders or members of an insurer, or engage in any corrupt or dishonest practice in or relative to the conduct of any such meeting. Violation of this section shall be punishable as provided in section 15 of this code.

Section 522. PROHIBITED PECUNIARY INTEREST OF OFFICIALS. (1) Any officer or director, or any member of any committee or an employee of a domestic insurer who is charged

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with the duty of investing or handling the insurer's funds shall not deposit or invest such funds except in the insurer's corporate name except that such insurer may for its convenience hold any equity investment in a street name or in the name of a nominee; shall not borrow the funds of such insurer; shall not be pecuniarily interested in any loan, pledge or deposit, security, investment, sale, purchase, exchange, reinsurance, or other similar transaction or property of such insurer except as a stockholder or member; shall not take or receive to his own use any fee, brokerage, commission, gift, or other consideration for or on account of any such transaction made by or on behalf of such insurer.

(2) No insurer shall guarantee any financial obligation of any of its officers or directors.

(3) This section shall not prohibit such a director or officer, or member of a committee or employee from becoming a policyholder of the insurer and enjoying the usual rights so provided for its policyholders, nor shall it prohibit any such officer, director or member of a committee or employee from participating as beneficiary in any pension trust, deferred compensation plan, profit sharing plan or stock option plan authorized by the insurer and to which he may be eligible, nor shall it prohibit any director or member of a committee from receiving a reasonable fee for legal services actually rendered to such insurer.

(4) The Commissioner may, by regulations from time to time, define and permit additional exceptions to the prohibition contained in subsection (1) of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the insurer, or to a corporation or firm in which a director is interested, for necessary services performed or sales or purchases made to or for the insurer in the ordinary course of the insurer's business and in the usual private professional or business capacity of such director or such corporation or firm.

Section 523. MANAGEMENT AND EXCLUSIVE AGENCY CONTRACTS. (1) No domestic insurer shall hereafter make any contract whereby any person is granted or is to enjoy in fact the management of the insurer to the substantial exclusion of its board of directors or to have the controlling or preemptive right to produce substantially all insurance business for the insurer, unless the contract is filed with and approved by the Commissioner. The contract shall be deemed approved unless disapproved by the Commissioner within twenty (20) days after date of filing, subject to such reasonable extension of time as the Commissioner may require by notice given within such twenty (20) days. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

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(2) Any such contract shall provide that any such manager or producer of its business shall within ninety (90) days after expiration of each calendar year furnish the insurer's board of directors a written statement of amounts received under or on account of the contract and amounts expended thereunder during such calendar year, including the emoluments received therefrom by the respective directors, officers, and other principal management personnel of the manager or producer, and with such classification of items and further detail as the insurer's board of directors may reasonably require.

(3) The Commissioner shall disapprove any such contract if he finds that it:

(a) Subjects the insurer to excessive charges; or

(b) Is to extend for an unreasonable length of time; or

(c) Does not contain fair and adequate standards of performance; or

(d) Contains other inequitable provision or provisions which impair the proper interests of stockholders or members of the insurer.

(4) This section does not apply as to contracts entered into prior to the effective date of this code, nor to extensions or amendments to such contracts.

Section 524. NOTICE OF CHANGE OF DIRECTORS, OFFICERS. An insurer shall promptly give the Commissioner written notice of any change of personnel among the directors, or principal officers of the insurer.

Section 525. HOME OFFICE AND RECORDS; PENALTY FOR UNLAWFUL REMOVAL OF RECORDS. (1) Every domestic insurer shall have and maintain its principal place of business and home office in this State, and shall keep therein complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary or suitable as to the kind or kinds of insurance transacted.

(2) Every domestic insurer shall have and maintain its assets in this State, except as to:

(a) Real property and personal property appurtenant thereto lawfully owned by the insurer and located outside this State, and

(b) Such property of the insurer as may be customary, necessary, and convenient to enable and facilitate the operation of its branch offices and "regional home offices" located outside this State as referred to in subsection (4) below.

(3) Removal of all or a material part of the records or assets of a domestic insurer from this State except pursuant to a plan of merger or consolidation approved by the Commissioner under this code, or for such reasonable purposes and periods of time as may

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be approved by the Commissioner in writing in advance of such removal, or concealment of such records or assets or material part thereof from the Commissioner, is prohibited. Any person who removes or attempts to remove such records or assets or such material part thereof from the home office or other place of business or of safekeeping of the insurer in this State with the intent to remove the same from this State, or who conceals or attempts to conceal the same from the Commissioner, in violation of this section, shall upon conviction thereof be guilty of a felony, punishable by a fine of not more than ten thousand dollars (\$10,000.00), or by imprisonment in the penitentiary for not more than five (5) years, or by both such fine and imprisonment in the discretion of the court. Upon any removal or attempted removal of such records or assets or upon retention of such records or assets or material part thereof outside this State, beyond the period therefor specified in the Commissioner's consent under which the records were so removed thereat, or upon concealment of or attempt to conceal records or assets in violation of this section, the Commissioner may institute delinquency proceedings against the insurer pursuant to the provisions of chapter 28 of this code.

(4) This section shall not be deemed to prohibit or prevent an insurer from:

(a) Establishing and maintaining branch offices or "regional home offices" in other states where necessary or convenient to the transaction of its business and keeping therein the detailed records and assets customary and necessary for the servicing of its insurance in force and affairs in the territory served by such an office, as long as such records and assets are made readily available at such office for examination by the Commissioner at his request.

(b) Having, depositing or transmitting funds and assets of the insurer in or to jurisdictions outside of this State required by the law of such jurisdiction or as reasonably and customarily required in the regular course of its business, including the retention of personal property or securities in a depository outside the State of Alabama for purposes of safe keeping or for the convenient operation of the insurer.

(5) For good cause shown and with the written permission of the Commissioner a domestic insurer may maintain its executive offices outside the State of Alabama provided it keeps an office managed by one or more officers of the insurer and a complete duplicate set of records in Alabama, and further agrees to make all records at the executive offices outside Alabama available to the Commissioner of Alabama upon reasonable notice by him.

(6) This section shall not apply to domestic insurers incorpora-

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ted under the laws of this state prior to the effective date of this code.

Section 526. VOUCHERS FOR EXPENDITURES. (1) No insurer shall make any disbursement of twenty-five dollars (\$25.00) or more, unless evidenced by a voucher or other document correctly describing the consideration for the payment and support by a check or receipt endorsed or signed by or on behalf of the person receiving the money.

(2) If the disbursement is for services and reimbursement, the voucher or other document, or some other writing referred to therein, shall describe the services and itemize the expenditures.

(3) If the disbursement is in connection with any matter pending before any legislature or public body or before any public official, the voucher or other document shall also correctly describe the nature of the matter and of the insurer's interest therein.

Section 527. CONTINGENT LIABILITY OF MUTUAL MEMBERS. (1) Each member of a domestic mutual insurer shall, except as otherwise hereinafter provided with respect to non-assessable policies, have a contingent liability, pro rata and not one for another, for the discharge of its obligations, which contingent liability shall be expressed in the policy and be in such maximum amount as is specified in the insurer's articles of incorporation.

(2) Termination of the policy of any such member shall not relieve the member of contingent liability for his proportion, if any, of the obligations of the insurer which accrued while the policy was in force.

(3) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.

Section 528. LEVY OF CONTINGENT LIABILITY. (1) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it under this code for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors shall levy an assessment only upon its members who held policies providing for contingent liability at any time within the twelve months preceding the date notice of such assessment was mailed to them, and such members shall be liable to the insurer for the amount so assessed.

(2) The assessment shall be for such an amount as is required to cure such deficiency and to provide a reasonable amount of working funds above such minimum amount of surplus, but such working funds so provided shall not exceed five percent (5%) of the insurer's liabilities as of the date as of which the amount of

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such deficiency was determined.

(3) In levying an assessment on a policy providing for contingent liability, the assessment shall be computed on a basis of premium earned on such policy.

(4) No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or loss payable.

(5) As to life insurance, any part of such an assessment upon a member which remains unpaid following notice of assessment, demand for payment, and lapse of a reasonable waiting period as specified in such notice, may, if approved by the Commissioner as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held by the insurer to the credit of such member.

Section 529. ENFORCEMENT OF CONTINGENT LIABILITY. (1) Any assessment made by an insurer under section 528 or section 538 of this chapter is prima facie correct. The amount of such assessment to be paid by each member as determined by the insurer is likewise prima facie correct.

(2) The insurer shall notify each member of the amount of the assessment to be paid by written notice mailed to the address of the member last of record with the insurer. Failure of the member to receive the notice so mailed, within the time specified therein for the payment of the assessment or at all, shall be no defense in any action to collect the assessment.

(3) If a member fails to pay the assessment within the period specified in the notice, which period shall not be less than twenty (20) days after mailing, the insurer may institute suit to collect the same.

Section 530. NONASSESSABLE POLICIES, MUTUAL INSURERS. (1) While possessing surplus funds in amount not less than the paid-in capital stock required of a domestic stock insurer transacting like kinds of insurance, a domestic mutual insurer may, upon receipt of the Commissioner's order so authorizing, extinguish the contingent liability of its members as to all its policies in force and may omit provisions imposing contingent liability in all its policies currently issued.

(2) A foreign or alien mutual insurer may issue nonassessable policies to its members in this State pursuant to its articles of incorporation and the laws of its domicile.

Section 531. NONASSESSABLE POLICIES, REVOCATION OF AUTHORITY. The Commissioner shall revoke the authority of a domestic mutual insurer to issue policies without contingent liability if at any time the insurer's assets are less than the sum of

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its liabilities and the surplus required for such authority, or if the insurer, by resolution of its board of directors approved by a majority of its members, requests that the authority be revoked. During the absence of such authority the insurer shall not issue any policy without providing therein for the contingent liability of the policyholder, nor renew any policy which is renewable at the option of the insurer without endorsing the same to provide for such contingent liability.

Section 532. PARTICIPATING POLICIES. Unless prohibited by its articles of incorporation, a domestic stock or domestic mutual insurer may issue any or all of its policies with or without participation in profits, savings or unabsorbed portions of premiums, may classify policies issued on a participating and non-participating basis, and may determine the right to participate and the extent of participation of any class or classes of policies. Any such classification or determination shall be reasonable, and shall not unfairly discriminate as between policyholders within the same such classifications. A life insurer may issue both participating and non-participating policies only if the right or absence of right to participate is reasonably related to the premium charged.

Section 533. DIVIDENDS TO STOCKHOLDERS. (1) A Domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business.

(2) A stock dividend may be paid out of any available surplus funds in excess of the aggregate amount of surplus loaned to the insurer under section 536.

(3) A dividend otherwise proper may be payable out of the insurer's surplus even though its total surplus is then less than the aggregate of its past contributed surplus resulting from issuance of its capital stock at a price in excess of the par value thereof.

Section 534. DIVIDENDS TO MUTUAL POLICYHOLDERS.

(1) The directors of a domestic mutual insurer may from time to time apportion and pay or credit to its members dividends only out of that part of its surplus funds which represents net realized savings and net realized earnings in excess of the surplus required by law to be maintained.

(2) A dividend otherwise proper may be payable out of such savings and earnings even though the insurer's total surplus is then less than the aggregate of its contributed surplus.

Section 535. ILLEGAL DIVIDENDS – PENALTY. (1) Any director of a domestic stock or mutual insurer who knowingly

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votes for or concurs in declaration or payment of a dividend to stockholders or members except as authorized in sections 533 or 534 shall upon conviction thereof be guilty of a misdemeanor and shall be jointly and severally liable, together with other such directors likewise voting for or concurring, for any loss thereby sustained by the insurer.

(2) Any stockholder receiving such an illegal dividend shall be liable in the amount thereof to the insurer.

(3) The Commissioner may revoke or suspend the certificate of authority of an insurer which has declared or paid such an illegal dividend.

Section 536. BORROWED SURPLUS. (1) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest at a reasonable rate per annum, which interest shall or shall not constitute a liability of the insurer as to its funds other than such excess of surplus, as stipulated in the agreement. No commission or promotion expense shall be paid in connection with any such loan.

(2) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any set-off; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(3) Any such loan to a mutual insurer shall be subject to the Commissioner's approval. The insurer shall, in advance of the loan, file with the Commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless within fifteen days after date of such filing the insurer is notified of the Commissioner's disapproval and the reasons therefor. The Commissioner shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate.

(4) Any such loan to a mutual insurer or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made by a mutual insurer unless in advance

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approved by the Commissioner.

(5) This section shall not apply to any loan other than one obtained upon a written agreement that such loan is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement.

Section 537. IMPAIRMENT OF CAPITAL OR ASSETS. (1) If a stock insurer's capital (as represented by the aggregated par value of its outstanding capital stock) becomes impaired, or the assets of a mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it under sections 511 or 516 for authority to transact the kinds of insurance being transacted, the Commissioner shall at once determine the amount of deficiency and serve notice upon the insurer to make good the deficiency within sixty (60) days after service of such notice.

(2) The deficiency may be made good in cash or in assets eligible under chapter 35 (investments) for the investment of the insurer's funds; or if a stock insurer, by reduction of the insurer's capital to an amount not below the minimum required for the kinds of insurance thereafter to be transacted; or if a mutual insurer, by amendment of its certificate of authority to cover only such kind or kinds of insurance thereafter for which the insurer has sufficient surplus under this code.

(3) If the deficiency is not made good and proof thereof filed with the Commissioner within such sixty-day period, the insurer shall be deemed insolvent and the Commissioner shall institute delinquency proceedings against it under chapter 28 of this code; except that if such deficiency exists because of increased loss reserves required by the Commissioner, or because of disallowance by the Commissioner of certain assets or reduction of the value at which carried in the insurer's accounts, the Commissioner may, in his discretion and upon application and good cause shown, extend for not more than an additional sixty (60) days the period within which such deficiency may be so made good and such proof thereof so filed.

Section 538. ASSESSMENT OF STOCKHOLDERS OR MEMBERS. Any insurer receiving the Commissioner's notice mentioned in section 537.

(1) If a stock insurer, and if its articles of incorporation and laws of this state so permit, by resolution of its board of directors and subject to any limitations upon assessment contained in its articles of incorporation, may assess its stockholders for amounts necessary to cure the deficiency and provide the insurer with a reasonable amount of surplus in addition. If any stockholder fails to pay a lawful assessment after notice given to him in person or by advertisement in such time and manner as approved by the

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Commissioner, the insurer may require the return of the original certificate of stock held by the stockholder, and in cancellation and in lieu thereof issue a new certificate for such number of shares as the stockholder may then be entitled to, upon the basis of the stockholder's proportionate interest in the amount of the insurer's capital stock as determined by the Commissioner to be remaining at the time of determination of amount of impairment under section 537 after deducting from such proportionate interest the amount of such unpaid assessment. The insurer may pay for or issue fractional shares under this subsection.

(2) If a mutual insurer, shall levy such an assessment upon members as is provided under section 528.

(3) Neither this section nor section 537 shall be deemed to prohibit the insurer from curing any such deficiency through any lawful means other than those referred to in such sections.

Section 539. MUTUALIZATION OF STOCK INSURERS. (1) A stock insurer other than a title insurer may become a mutual insurer under such plan and procedure as may be approved by the Commissioner after a hearing thereon.

(2) The Commissioner shall not approve any such plan, procedure or mutualization unless:

(a) It is equitable to stockholders and policyholders;

(b) It is subject to approval by the holders of not less than three-fourths of the insurer's outstanding capital stock having voting rights and by not less than three-fourths of the insurer's policyholders who vote on such plan in person, by proxy or by mail pursuant to such notice and procedure as may be approved by the Commissioner;

(c) If a life insurer, the right to vote thereon is limited to holders of policies other than term or group policies, and whose policies have been in force for more than one year;

(d) Mutualization will result in retirement of shares of the insurer's capital stock at a reasonable price as specified in the plan;

(e) The plan provides for the purchase of the shares of any nonconsenting stockholder in the same manner and subject to the same applicable conditions as provided by the general corporation laws of the state, as to rights of nonconsenting stockholders, with respect to consolidation or merger or private corporations;

(f) The plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective; and

(g) The mutualization leaves the insurer with surplus funds reasonably adequate for the security of its policyholders and to enable it to continue successfully in business in the states in which it is then authorized to transact insurance, and for the kinds of insurance included in its certificates of authority in such states.

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(3) This section shall not apply to mutualization under order of court pursuant to rehabilitation or reorganization of an insurer under chapter 28.

Section 540. CONVERTING MUTUAL INSURER. (1) A mutual insurer may become a stock insurer under such plan and procedure as may be approved by the Commissioner after a hearing thereon.

(2) The Commissioner shall not approve any such plan or procedure unless:

(a) It is equitable to the insurer's members;

(b) It is subject to approval by vote of not less than three-fourths of the insurer's current members voting thereon in person, by proxy, or by mail at a meeting of members called for the purpose pursuant to such reasonable notice and procedure as may be approved by the Commissioner; if a life insurer, right to vote may be limited to members who hold policies other than term or group policies, and whose policies have been in force for not less than one year;

(c) The equity of each policyholder in the insurer is determinable under a fair formula approved by the Commissioner, which such equity shall be based upon not less than the insurer's entire surplus (after deducting contributed or borrowed surplus funds) plus a reasonable present equity in its reserves and in all non-admitted assets;

(d) The policyholders entitled to participate in the purchase of stock or distribution of assets shall include all current policyholders and all existing persons who had been a policyholder of the insurer within three (3) years prior to the date such plan was submitted to the Commissioner;

(e) The plan gives to each policyholder of the insurer as specified in subdivision (d) above, a preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer, within a designated reasonable period, and to apply upon the purchase thereof the amount of his equity in the insurer as determined under subdivision (c) above;

(g) Shares are so offered to policyholders at a price not greater than to be thereafter offered to others;

(h) The plan provides for payment to each policyholder not electing to apply his equity in the insurer for or upon the purchase price of stock to which pre-emptively entitled, of cash in the amount of his equity not so used for the purchase of stock, and which cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of such mutual insurer; and

(i) The plan, when completed, would provide for the converted insurer paid-in capital stock in an amount not less than the

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minimum paid-in capital required of a domestic stock insurer transacting like kinds of insurance, together with surplus funds in amount not less than one-half of such required capital.

Section 541. MERGERS AND CONSOLIDATIONS OF STOCK INSURERS. (1) A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock insurers by complying with the applicable provisions of the statutes of this State governing the merger or consolidation of stock corporations formed for profit, but subject to subsections (2) and (3) below.

(2) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the Commissioner and approved in writing by him after a hearing thereon. The Commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(a) Is contrary to law; or

(b) Inequitable to the stockholders of any domestic insurer involved; or

(c) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this State or elsewhere.

(3) No director, officer, agent or employee of any insurer party to such merger or consolidation shall receive any fee, commission, compensation or other valuable consideration whatsoever for in any manner aiding, promoting or assisting therein except as set forth in such plan or agreement.

(4) If the Commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

(5) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance also in other states, the Commissioner may request the Insurance Commissioner, Director of Insurance, Superintendent of Insurance or other similar public insurance supervisory official of the two other such states in which such insurer has in force the larger amounts of insurance, to participate in the hearing provided for under subsection (2) above, with full right to examine all witnesses and evidence and to offer to the Commissioner such pertinent information and suggestions as they may deem proper.

(6) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions hereof.

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Section 542. MERGERS AND CONSOLIDATIONS, MUTUAL INSURERS. (1) A domestic mutual insurer may merge or consolidate with another insurer under the applicable procedures prescribed by the statutes of this State applying to corporations formed for profit, except as hereinbelow provided.

(2) The plan and agreement for merger or consolidation shall be submitted to and approved by at least two-thirds of the members of each mutual insurer voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the Commissioner. If a life insurer, right to vote may be limited to members whose policies are other than term and group policies, and have been in effect for more than one year.

(3) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the Commissioner and approved by him in writing after a hearing thereon. The Commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(a) Inequitable to the policyholders of any domestic insurer involved; or

(b) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this State and elsewhere.

(4) If the Commissioner does not approve such plan or agreement he shall so notify the insurers in writing specifying his reasons therefor.

(5) Section 541 (5) shall also apply as to mergers and consolidations of such mutual insurers.

Section 543. BULK REINSURANCE, STOCK INSURERS. (1) A domestic stock insurer may reinsure all or substantially all of its insurance in force or a major class thereof, with another insurer by an agreement of bulk reinsurance; but no such agreement shall become effective unless filed with the Commissioner and approved by him in writing after a hearing thereon.

(2) The Commissioner shall approve such agreement within a reasonable time after such filing unless he finds that it is inequitable to the stockholders of the domestic insurer or would substantially reduce the protection or service to its policyholders. If the Commissioner does not approve the agreement he shall so notify the insurer in writing specifying his reasons therefor. If the Commissioner does not approve or disapprove such agreement and notify the insurer thereof in writing within thirty (30) days after such filing, it shall conclusively be presumed that the agreement is approved by the Commissioner.

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Section 544. BULK REINSURANCE, MUTUAL INSURERS.

(1) A domestic mutual insurer may reinsure all or substantially all its business in force, or all or substantially all of a major class thereof, with another insurer, stock or mutual, by an agreement of bulk reinsurance after compliance with this section. No such agreement shall become effective unless filed with the Commissioner and approved by him in writing after a hearing thereon.

(2) The Commissioner shall approve such agreement within a reasonable time after filing if he finds it to be fair and equitable to each domestic insurer involved, and that such reinsurance if effectuated would not substantially reduce the protection or service to its policyholders. If the Commissioner does not so approve, he shall so notify each insurer involved in writing specifying his reasons therefor.

(3) The plan and agreement for such reinsurance must be approved by vote of not less than two-thirds of each domestic mutual insurer's members voting thereon at meetings of members called for the purpose, pursuant to such reasonable notice and procedure as the Commissioner may approve. If a life insurer, right to vote may be limited to members whose policies are other than term or group policies, and have been in effect for more than one year.

(4) If for reinsurance of a mutual insurer in a stock insurer, the agreement must provide for payment in cash to each member of the insurer entitled thereto as upon conversion of such insurer pursuant to section 540, of his equity in the business reinsured as determined under a fair formula approved by the Commissioner, which equity shall be based upon such member's equity in the reserves, assets (whether or not "admitted" assets) and surplus, if any, of the mutual insurer to be taken over by the stock insurer.

Section 545. MUTUAL MEMBER'S SHARE OF ASSETS ON LIQUIDATION. (1) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration, shall be distributed to existing persons who were its members at any time within thirty-six (36) months next preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer's certificate of authority whichever date is the earlier; except, that if the Commissioner has reason to believe that those in charge of the management of the insurer have caused or encouraged the reduction of the number of members of the insurer in anticipation of liquidation and for the purpose of reducing thereby the number of persons who may be entitled to share in distribution of the insurer's assets, he may enlarge the thirty-six (36) month qualification period above provided for by

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such additional period as he may deem to be reasonable.

(2) The distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of his membership bear to the aggregate of all premiums so earned on the policies of all such members. The insurer may, and if a life insurer shall, make a reasonable classification of its policies so held by such members, and a formula based upon such classification, for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the approval of the Commissioner.

Section 546. EXTINGUISHMENT OF UNUSED CORPORATE CHARTERS. (1) The corporate charter of any corporation formed under the laws of this State more than three (3) years prior to the effective date of this code for the purpose of becoming an insurer, and which corporation within such three-year period has not actively engaged in business as a domestic insurer under a certificate of authority issued to it by the Commissioner under laws then in force, is hereby extinguished and nullified.

(2) The corporate charter of any other corporation formed under the laws of this State for the purpose of becoming an insurer, and which corporation during any period of thirty-six (36) consecutive months after the effective date of this code is not actively engaged in business as a domestic insurer under a certificate of authority issued to it by the Commissioner under laws currently in force, is automatically hereby extinguished and nullified at the expiration of such thirty-six month period.

(3) The period during which any such corporation referred to in subsection (2) above is the subject of delinquency proceedings under chapter 29 of this code shall not be counted as part of any such thirty-six month period.

(4) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of such merged or consolidated domestic insurer shall thereby automatically be extinguished and nullified.

Section 547. RULES AND REGULATIONS OF PROXIES, CONSENTS AND AUTHORIZATIONS. The commissioner shall have the power and it shall be his duty to prescribe, publish and disseminate to all domestic stock insurance companies uniform written rules and regulations of proxies, consents and authorizations, including the solicitation thereof and information necessary or appropriate to such solicitation or to the authorization sought thereby, in respect of securities issued by such domestic stock insurance companies; and it shall be unlawful for any person to

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solicit, or to permit the use of his name to solicit any proxy, consent or authorization in respect of any such securities, in contravention of such rules and regulations as may be prescribed, published and disseminated pursuant to this section.

Section 548. INSIDER TRADING OF DOMESTIC STOCK INSURER EQUITY SECURITIES. Sections 548 through 556 shall be known as the Insider Trading of Domestic Stock Insurer Equity Securities Law.

Section 549. OWNERSHIP STATEMENTS REQUIRED OF DIRECTORS, OFFICERS AND CERTAIN BENEFICIAL OWNERS OF EQUITY SECURITIES; TIME OF FILING. Every person who is directly or indirectly the beneficial owner of more than ten per cent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance of Alabama on or before the 31st day of January, 1972, or within ten days after he becomes such beneficial owner, director or officer a statement, in such form as the commissioner may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the Commissioner a statement, in such form as the Commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

Section 550. PROFITS REALIZED WITHIN SIX MONTHS TO INURE TO COMPANY; SUITS TO RECOVER PROFITS; CERTAIN TRANSACTIONS EXEMPTED. For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company shall fail or refuse to bring such

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suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase of the security involved, or any transaction or transactions which the commissioner by rules and regulations may exempt as not comprehended within the purpose of this section.

Section 551. UNLAWFUL TO SELL SECURITIES NOT OWNED BY SELLER OR DELIVERED WITHIN TIME SPECIFIED. It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal (1) does not own the security sold, or (2) if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

Section 552. SECTIONS 550 AND 551 INAPPLICABLE TO CERTAIN TRANSACTIONS; COMMISSIONER MAY PRESCRIBE TERMS AND CONDITIONS OF CERTAIN SECURITIES AND TRANSACTIONS. The provisions of section 550 of this chapter shall not apply to any purchase and sale, or sale and purchase, and the provisions of section 551 of this chapter shall not apply to any sale of an equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on an exchange as defined in the Securities Exchange Act of 1934) for such security. The commissioner may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

Section 553. APPLICABILITY OF SECTIONS 549 TO 551 TO FOREIGN OR DOMESTIC ARBITRAGE TRANSACTIONS. The provisions of sections 549, 550 and 551 of this chapter shall not apply to foreign or domestic arbitrage transactions unless

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made in contravention of such rules and regulations as the superintendent may adopt in order to carry out the purposes of this chapter.

Section 554. DEFINITION OF "EQUITY SECURITY." The term "equity security" when used in this chapter means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

Section 555. WHEN PROVISIONS OF SECTIONS 549 TO 551 NOT APPLICABLE TO EQUITY SECURITIES. The provisions of sections 549, 550 and 551 of this chapter shall not apply to equity securities of a domestic stock insurance company if (a) such securities shall be registered, or shall be required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934, as amended, or if (b) such domestic stock insurance company shall not have any class of its equity securities held of record by one hundred or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 549, 550 and 551 of this chapter except for the provisions of this subsection (b).

Section 556. RULES AND REGULATIONS. The commissioner shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in him by sections 549 through 555 of this chapter, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of sections 549, 550 and 551 of this chapter imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

CHAPTER 26

MUTUAL AID ASSOCIATIONS

Section 557. SCOPE OF CHAPTER; PROVISIONS EXCLUSIVE. (1) This chapter applies only to domestic mutual aid associations, as defined in section 558.

(2) No provision of this code shall apply to mutual aid associations except as contained or referred to in this chapter.

Section 558. MUTUAL AID ASSOCIATION DEFINED. For the purposes of this code a mutual aid association whether otherwise known as a "benefit" or "industrial" company or by whatever other name called, is a corporation whose business is limited to the provision of any of the following payments, aid or benefits, under certificates, policies, or agreements issued to or made with members or policyholders, and which payments, aid or benefits are derived from donations, fees, dues, assessments, or premiums:

(1) Upon the birth of any child, or marriage, or sickness or physical disability of the policyholder or member or of his dependent, to pay money or render aid.

(2) The provision of dental, medical or surgical attention, or hospital service or attention of any kind as to the member or policyholder or to his dependents.

(3) Upon death of the policyholder or member or of his dependent, to pay money or render aid, including burial benefits or the furnishing of a complete funeral, and including the payment of money and rendering aid to a beneficiary as designated by the policyholder or member becoming deceased.

Section 559. EXCEPTIONS AND EXEMPTIONS FROM MUTUAL AID ASSOCIATION DESIGNATION. The designation "mutual aid association" and this chapter do not apply as to:

(1) Any secret or benevolent society, such as Masons, Odd Fellows, Knights and Ladies of Honor, Knights of Pythias, or like orders and societies, or any association organized and operating in good faith under the lodge system for purely benevolent purposes and with a ritualistic form of work.

(2) Agreements between hospitals and industrial corporations to provide for hospital services for the employees of such corporations; and the employment by such corporations of medical doctors, surgeons, and dentists for the purpose of giving medical, surgical and dental attention to such employees.

(3) Any insurer operating under or subject to the general insurance laws of this state.

Section 560. COMPLIANCE AND CERTIFICATE OF

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AUTHORITY REQUIRED. (1) No person shall in this state be, act as, or hold itself out to be a mutual aid association except in compliance with this chapter and as authorized by a subsisting certificate of authority therefor, issued by the Commissioner under this chapter.

(2) No person shall act as solicitor, collector or otherwise as an agent or representative of any entity or organization acting as or purporting to be a mutual aid association unless such entity or organization is then authorized as a mutual aid association as required in subsection (1), above.

(3) Any person who violates this section shall upon conviction thereof be guilty of a misdemeanor and punished by a fine of not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for not less than ten (10) days nor more than one year, or by both such fine and imprisonment in the discretion of the court. For the purposes of this provision each instance of such violation shall be deemed to constitute a separate offense.

Section 561. GENERAL REQUIREMENTS FOR CERTIFICATE OF AUTHORITY. No person shall hereafter be authorized or hold authority to transact business in this state as a mutual aid association unless it is otherwise in compliance with this chapter and meets the following requirements:

(1) Must be a corporation heretofore or hereafter lawfully formed under the laws of the State of Alabama.

(2) If a stock corporation, and except as provided in section 562, must have and maintain unimpaired paid-in capital stock of not less than fifty thousand dollars (\$50,000.00), and if newly organized must have in addition when first so authorized a paid-in surplus of not less than seventy-five thousand dollars (\$75,000.00).

(3) If a mutual corporation, and except as provided in section 562, must have applications for benefits, and paid-in fees, dues, assessments, or contributions, if required under section 585 of this chapter, and must thereafter have and maintain unimpaired surplus funds, representing the excess of its admitted assets over all its required reserves and incurred liabilities, of not less than seventy-five thousand dollars (\$75,000.00).

(4) Its management and affairs must be conducted under the actual and active control, direction, and supervision of directors or trustees, officers and other management personnel each of whom has been found by the Commissioner after due investigation to be an individual of good character and reputation and with sufficient education, training, or experience to be reasonably competent in the fulfillment of his duties and responsibilities relative to the association.

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(5) Must not be affiliated, directly or indirectly, with any person or persons whose business operations are or have been marked, to the detriment of members, policyholders, stockholders, creditors, or the public, by manipulation of assets, or accounts, or of reinsurance, or by bad faith.

(6) Must have and maintain in this state a principal office for the transaction of its business, and must keep therein records and accounts of its affairs as required under section 577.

Section 562. CAPITAL REQUIREMENTS, EXISTING ASSOCIATIONS. Any domestic mutual aid association which immediately prior to the effective date of this code lawfully held a certificate of authority or license to transact such business in this state, and which is otherwise in compliance with the requirements of this chapter, shall be entitled to have a certificate of authority while it has and maintains unimpaired paid-in capital stock (if a stock corporation) or surplus (if a mutual corporation) as follows:

(1) If it is a stock corporation it must have and maintain capital stock of at least twenty-five thousand dollars (\$25,000.00); except that an association having unimpaired paid-in capital stock on the effective date of this code in less than such amount, shall as of each December 31 following such effective date have increased its unimpaired paid-in capital stock by an amount equal to not less than twenty percent (20%) of such original deficiency, so that and until not later than the fifth such December 31 the association shall have unimpaired paid-in capital stock of not less than twenty-five thousand dollars (\$25,000.00). Such an association shall be entitled to have its certificate of authority continue in effect during such five-year period if it is otherwise entitled thereto under this chapter.

(2) If it is a mutual corporation it must have and maintain unimpaired surplus funds in the amount of not less than twelve thousand five hundred dollars (\$12,500.00); except that an association having unimpaired surplus funds on the effective date of this code in less than such amount, shall as of each December 31 following such effective date have increased its unimpaired surplus funds by an amount equal to not less than twenty percent (20%) of such original deficiency, so that and until not later than the fifth such December 31 the association shall have unimpaired surplus funds of not less than twelve thousand five hundred dollars (\$12,500.00). Such an association shall be entitled to have its certificate of authority continue in effect during such five-year period if it is otherwise entitled thereto under this chapter.

(3) The Commissioner shall promptly revoke the certificate of authority of any such association that does not comply with the requirements of this section.

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Section 563. NAME OF ASSOCIATION. Every mutual aid association shall have and use in its transactions a corporate name suited to the character and purposes of the association. No such name shall so closely resemble the name of any other corporation or organization doing business in Alabama or elsewhere as to tend to be confusing or deceptive; nor shall any such name be one which tends to confuse or mislead as to the character or plan of operation of the association.

Section 564. APPLICATION FOR CERTIFICATE OF AUTHORITY. (1) To apply for a certificate of authority a mutual aid association shall file with the Commissioner its application therefor on forms as prescribed and furnished by him, and showing:

(a) Name of the association and the address of its principal office or place of business in this state;

(b) Name, identification, and residence address of each director, trustee, or officer of the association;

(c) The types of aid or benefits to be provided its members or policyholders;

(d) The general plan or plans according to which its business is or will be conducted; and

(e) Such other information as the Commissioner may reasonably require.

(2) The applicant shall at the time of application for certificate of authority file with the Commissioner such of the following as are not already on file with him:

(a) A copy of its articles of incorporation, its bylaws, and other charter or constituent documents, certified by the public official having custody of the original, or in the case of documents not already of public record, certified by the officer of the association having custody thereof;

(b) A copy of each policy, certificate, contract, and agreement it proposes to use in the conduct of its business and relating to aid and benefits to be provided its members or policyholders;

(c) A financial statement, upon the same form and with verification as required for its annual statement as provided for under section 578, showing its current financial condition;

(d) A schedule of fees, dues, contributions, or other sums to be charged or received by the association in transactions under its certificate of authority, if granted;

(e) Appointment of the Commissioner as its attorney to receive service of process, as required under section 569; and

(f) Such other documents and matters as the Commissioner may reasonably require.

(3) At time of filing its application the association shall pay to

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the Commissioner the applicable fees prescribed in section 76 (1) (a).

Section 565. ISSUANCE, REFUSAL OF CERTIFICATE OF AUTHORITY. If upon completion of the application for a certificate of authority the Commissioner finds

(1) That the documents filed with the application are lawful and equitable in terms and have been properly executed and filed,

(2) That the applicant has the amount of unimpaired paid-in capital stock and/or surplus as required under this chapter, and has made the deposit required under section 574,

(3) That the forms of contracts, policies, or other agreements proposed to be used by the association in this state fulfill the requirements of section 570 and are not disapproved by him on any ground referred to in section 570 (3),

(4) That the proposed schedule of fees, dues, contributions or other sums to be charged or received by the association are provided for on a practical and feasible basis and would be adequate in amount to cover the risks and obligations to be assumed by the association under its certificates, policies, and agreements together with its reasonable expenses of operation.

(5) That the management and affairs of the association will be conducted under the actual and active control, direction and supervision of directors or trustees, officers and other management personnel each of whom is an individual of good character and reputation and with sufficient education, training, or experience to be reasonably competent in the fulfillment of his duties and responsibilities relative to the association, and

(6) That the applicant is otherwise entitled to a certificate of authority, under this chapter, he shall issue to the association a proper certificate of authority; if he does not so find, the Commissioner shall issue his order refusing such certificate. The Commissioner shall act upon an application for a certificate of authority within a reasonable period after its completion.

Section 566. EXPIRATION, RENEWAL OF CERTIFICATE OF AUTHORITY. (1) The certificate of authority of a mutual aid association issued under this chapter shall expire annually at midnight on the May 31 next following date of issuance or renewal.

(2) If the association has filed its annual statement for the preceding calendar year, has paid its taxes as provided for in this chapter, and is otherwise entitled thereto under this chapter, the Commissioner shall annually as of June 1 issue to the association a renewal certificate of authority if written request of the association therefor accompanied by the annual renewal fee specified in

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section 76 is received by the Commissioner not later than the preceding May 1. If such request for renewal and fee is received by the Commissioner after such May 1 but prior to the next following June 15, the Commissioner may, in his discretion, issue to the association a renewal certificate of authority as at such June 1 if the request is also accompanied by a reinstatement fee in the amount specified in section 76 (1) (a) (iv).

Section 567. REVOCATION, SUSPENSION OF CERTIFICATE OF AUTHORITY. (1) The Commissioner shall suspend or revoke the certificate of authority of a mutual aid association if he finds, upon examination or other evidence, that any one or more of the following grounds exist:

(a) For any cause for which he could have refused to issue the certificate of authority under this chapter had it then existed and been known to the Commissioner.

(b) If the association is in unsound condition, or is in such condition or is using such methods and practices in the conduct of its business as to render its further transactions of insurance in this state hazardous to its members, policyholders, dependents, beneficiaries, or to the public.

(c) If the association has refused to be examined or to produce its accounts, records and files for examination, or if any of its officers or agents have refused to perform any legal obligation relative thereto or have wilfully refused to give information with respect to its affairs, when required by the Commissioner.

(d) If the association has failed to pay any final judgment against it in favor of a citizen of this state.

(2) The Commissioner may, in his discretion, suspend or revoke the certificate of authority of a mutual aid association if he finds, upon examination or other evidence, that any one or more of the following grounds exist:

(a) If the association has failed to keep adequate and proper records of its transactions, or to give proper receipts and account for moneys paid to or received by it.

(b) If the association has, with such frequency as to indicate its general business practice in this state, without just cause refused to pay proper claims arising under its policies, certificates, contracts, or agreements, or without just cause compels claimants to accept less than the amount due them or to employ attorneys or to bring suit against the association to secure full payment or settlement of such claims.

(c) For violation of any provision of, or referred to in, this chapter.

Section 568. PROCEDURE FOR SUSPENSION, REVOCATION OF CERTIFICATE OF AUTHORITY. (1) If suspension or

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revocation of certificate of authority relates to grounds other than the financial condition of the association, the Commissioner shall give the association written notice of his intention to so suspend or revoke not less than ten (10) days in advance of the effective date of the proposed order of suspension or revocation. The notice shall state the grounds of the Commissioner's proposed action together with such details as reasonably to inform the association thereof. Notice mailed to the association at its principal place of business last of record with the Commissioner shall be deemed to have been given when so mailed. If within such ten (10) day period the association files with the Commissioner its written request for a hearing with respect to the proposed suspension or revocation, setting forth the reasons why, in its opinion, the Commissioner's proposed action is unlawful or should not be taken, the Commissioner shall hold the hearing so requested, upon notice and under procedures as provided for in chapter 2 of this code, and shall not effectuate the proposed suspension or revocation pending the hearing and his order made thereon.

(2) Following any such suspension or revocation, the Commissioner may cause notice thereof to be published in one or more newspapers of general circulation in this state.

(3) Upon such suspension or revocation becoming effective, the Commissioner shall likewise suspend or revoke the licenses of all agents of the association.

Section 569. COMMISSIONER APPOINTED PROCESS AGENT; SERVICE OF PROCESS. (1) Every mutual aid association at time of filing application for its certificate of authority shall by a duly executed instrument filed with the Commissioner, on a form as designated and furnished by the Commissioner, designate the principal office of the association in this state, and constitute and appoint the Commissioner and his successors in office as its true and lawful attorney, upon whom all lawful process in actions or legal proceedings against it may be served; and the association shall agree that any lawful process against it which may be served upon its said attorney shall be of the same force and validity as if served on the association itself, and that the authority thereof shall continue in force irrevocably as long as any liability remains outstanding against it in this state.

(2) Two (2) copies of any process issued by any court of record in this state and served upon the Commissioner or the person in charge of the Commissioner's office, by the proper officer of Montgomery County, shall be deemed a sufficient service on the association; and the Commissioner, promptly after such service of process, shall forward by registered or certified mail one of the copies of such process to the association at its principal place of business referred to in subsection (1), above.

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(3) Within thirty (30) days after the change of address of its principal office in this state, the association shall file written notice thereof with the Commissioner.

Section 570. CONTRACTS AND POLICIES; FILING; APPROVAL. (1) A mutual aid association shall issue to each member or policyholder a contract, in the English language, printed or reproduced by other easily legible means, and whether called a "certificate," "policy," "agreement," or by whatever name, setting forth the aid and benefits for which the association is liable as to the respective individuals covered by such contract and the terms and conditions thereof, and the amounts payable to the association on account of such contract and the terms and conditions of such payments. Any contract providing for aid, service, funeral, or other benefits payable otherwise than in cash, shall set forth the reasonable cash value at retail of such aid, service, funeral and other benefits, together with the valuation of such benefits for the purpose of computation of the reserves as provided in section 573.

(2) No provision or agreement not contained in such contract shall be deemed to affect, in any manner, the terms and conditions of the contract. No provision contained or to be contained in any other document shall be made a part of the contract by reference unless the pertinent portions of such other document or an adequate summary thereof are set forth in the contract.

(3) An association shall not offer or use any form of contract until such form has been on file with the Commissioner for at least twenty (20) days, nor thereafter if the form has been disapproved by the Commissioner. Within such twenty (20) days or at any time thereafter, the Commissioner may disapprove any such form found by him to be unlawful, or unreasonable in its terms and conditions, or inequitable, or that it contains ambiguous and misleading clauses or clauses and conditions that tend to deceive as to the coverage and benefits purported to be given under the contract. The association shall not thereafter offer or use any such form which the Commissioner has disapproved. The Commissioner shall set forth the grounds thereof in any order of disapproval issued by him.

Section 571. LIMITS OF RISK. (1) An association shall not at any one time have in force any contract or any number of contracts covering the same individual, whether such individual is so covered as a member, policyholder, dependent or in any other capacity, for benefits payable in cash or having a reasonable cash value aggregating in excess of amounts as follows:

(a) Death benefits payable upon the death of any one individual, for death by any cause, one thousand dollars

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(\$1,000.00).

(b) Accidental death benefits payable only upon the accidental death of any one individual, and including any special or additional benefits for accidental death included in any other death benefit contract, one thousand dollars (\$1,000.00).

(c) Funeral benefits and other merchandise, aid, and service benefits, one thousand dollars (\$1,000.00).

(2) This section shall not be deemed to make illegal any contract or coverage lawfully issued prior to the effective date of this code; but the association shall not issue any new contract covering in any way any individual likewise covered under any such prior contract if after issuance of such new contract any such individual would be covered, under all contracts issued by the association and then in force, for amounts which exceed in aggregate amount the limits respectively provided for in subsection (1) above.

(3) Notwithstanding the limitations set forth in Subsection (1) above, an association which maintains capital and surplus in amounts not less than that required by Section 561, shall not at any one time have in force any contract or any number of contracts covering the same individual, whether such individual is so covered as a member, policyholder, dependent or in any other capacity for benefits payable in cash or having a reasonable cash value aggregating in excess of amounts as follows:

(a) Death benefits payable upon the death of any one individual, for death by any cause, Two Thousand Five Hundred Dollars (\$2,500).

(b) Accidental death benefits payable only upon the accidental death of any one individual, and including any special or additional benefits for accidental death included in any other death benefit contract, Two Thousand Five Hundred Dollars (\$2,500).

Section 572. VALUATION OF CONTRACTS – CASH BENEFITS. (1) The Commissioner shall each year compute the net value as of December 31 of the preceding year, of all benefits payable in cash under all outstanding contracts or policies of each mutual aid association. Such valuation shall be made upon the basis of the “combined experience” or “actuaries table” or “the American experience table” rate of mortality (Illinois standard of valuation), with interest at the rate of four percent (4%) per annum. The aggregate net value so ascertained of such contracts or policies of the association shall be deemed its liability on account of such cash benefits, other than accrued claims, for the purpose of any determination of its financial condition.

(2) Funds of the association in amount not less than the value of such benefits, as valued under this section, shall be held by the

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association in cash or in investments as authorized under section 576 of this chapter.

Section 573. VALUATION OF CONTRACTS — BENEFITS, AID OR SERVICES (OTHER THAN CASH). (1) The Commissioner shall each year cause all outstanding contracts or policies of every mutual aid association to be carefully valued as of December 31 of the preceding year, at forty percent (40%) of the retail value of the benefits, aid or services provided under the terms of its contracts or policies, or at the average wholesale cost of the funeral supplies, benefits, aid and services so provided for whichever amount is the greater, as shown by the number of contracts or policies in force according to the books and records of the association, and shall at the time compute the net value of all such outstanding contracts of policies of every such association in the following manner:

(a) On all outstanding contracts or policies issued prior to September 16, 1953, the Commissioner shall compute the net value thereof by the two (2) following separate methods: Method No. 1: On the basis of one dollar and fifty cents (\$1.50) for each one hundred dollars (\$100.00) at risk. Method No. 2: On the basis of the "combined experience" or "actuaries' table," or "the American experience table" rate of mortality (Illinois standard of valuation), with interest at the rate of four percent (4%) per annum. On each December 31 the net value of all such outstanding contracts or policies issued prior to September 16, 1953, shall be the net value as computed by said Method No. 1, plus as many times one-tenth (1/10) of the difference, if any there be, between the net value as computed by method No. 1 and the net value as computed by said method No. 2, as the number of full years elapsed since September 16, 1953; and said net value on each December 31 shall continue to be so computed until such time as said net value so computed shall be equal to the net value on such contracts or policies as computed exclusively by method No. 2, after which time the net value of all such outstanding contracts or policies shall be the net value as computed by method No. 2, exclusively.

(b) On all outstanding contracts or policies issued on and after September 16, 1953, the Commissioner shall compute the net value thereof on the basis above set out in the method No. 2, and the net value of all such outstanding contracts or policies shall on each December 31 thereafter be the net value as so computed.

(2) The net value of all the outstanding contracts or policies of every such association as of each December 31, ascertained and computed in accordance with the provisions of subsection (1), above, shall be deemed its liability on account of the benefits, aid or services payable other than in cash of such outstanding

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contracts or policies, other than accrued claims, to provide for which, and for the protection of its contract or policyholders, each such association shall hold net assets of an amount equal to such net value, which reserve assets may consist of cash and such investments as are authorized under section 576 of this chapter.

Section 574. DEPOSIT; AMOUNT, PURPOSE, COMPOSITION. (1) Each mutual aid association shall, prior to issuance of its certificate of authority, deposit and thereafter maintain on deposit with the Treasurer of the State of Alabama, securities of the kind authorized under subsection (4), below, in the amount of not less than five thousand dollars (\$5,000.00). If in any calendar year the gross premium receipts of the association from business done within this state exceed fifty thousand dollars (\$50,000.00), the association shall, not later than the March 30 next following such calendar year increase the amount of its deposit so made and maintained in accordance with the following schedule:

	Gross Premium receipts during calendar year	Amount of deposit required
More than	\$ 50,000 but less than \$ 150,000	\$ 10,000
Equal to	150,000 but less than 250,000	15,000
Equal to	250,000 but less than 350,000	20,000
Equal to	350,000 but less than 500,000	25,000
Equal to	500,000 but less than 750,000	50,000
Equal to	750,000 but less than 1,000,000	75,000
Equal to	1,000,000 or more	100,000

(2) Any such deposit is so made and shall be so held by the State Treasurer in trust for the benefit and protection of the contract or policyholders in this state of the depositing mutual aid association.

(3) The term "gross premium receipts" as used in this section shall include all sums received by the association as fees, dues, premiums, contributions, or by whatever other name called, from its contract or policyholders as consideration for or in connection with such contracts and policies.

(4) All such deposits shall consist of assets, approved by the Commissioner, such as are eligible for deposit generally under section 98(1) of this code.

Section 575. ADMINISTRATION, RELEASE OF DEPOSIT. (1) Deposits of mutual aid associations heretofore or hereafter made with the State Treasurer under section 574 of this code or under laws heretofore in force, shall be administered as provided

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by, be subject to withdrawal and release, and otherwise be subject to the applicable provisions of chapter 6 of this code (administration of deposits), other than the following sections:

(a) Section 98 (purpose of deposit).

(b) Section 109 (sale of securities to pay obligations — special deposit of surety).

(2) A mutual aid association shall be deemed to be an “insurer” for the purposes and within the terms of chapter 6, above referred to.

Section 576. INVESTMENTS. The funds of a mutual aid association shall be in cash or invested as provided by the laws of this state with respect to such associations and life insurers.

Section 577. RECORDS. (1) Every mutual aid association shall keep complete and accurate accounts and records of its affairs and transactions, in accordance with the usual and accepted methods and principles of insurance accounting and record keeping as applicable to the kind of business transacted by the association.

(2) All such accounts and records of a mutual aid association shall be kept in the principal offices of the association located in this state, and be available for inspection thereat by the Commissioner on any general business day.

(3) The Commissioner may suspend or revoke the certificate of authority of any association found by him to be in violation of this section.

Section 578. ANNUAL STATEMENT AND INFORMATION.

(1) Each mutual aid association shall annually on or before March 1 file with the Commissioner a full and true statement of its financial condition, transactions and affairs as of the December 31 preceding. The statement shall be in such general form and content as is prescribed or approved by the Commissioner and shall be reasonably adapted to the plans of operation of such associations. The statement shall be verified by an officer of the association having knowledge of the facts.

(2) In addition to information called for and furnished in connection with its annual statement, an association shall furnish promptly to the Commissioner such information as to any of its transactions or affairs as the Commissioner may from time to time request in writing.

(3) At the time of filing, the association shall pay the fee for filing its annual statement as prescribed by section 76.

(4) The Commissioner may in his discretion suspend or revoke the certificate of authority of an association failing to file its annual statement when due.

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Section 579. RESPONSIBILITY OF OFFICERS, AGENTS FOR ANNUAL REPORT AND OTHER REQUIRED FILINGS. Any officer or agent of a mutual aid association whose duty it is to maintain its accounts and records, or to make the annual report to the Commissioner, or to designate the principal place of business, or agent for service of process of such association as required under this chapter, and who fails so to do, or who wilfully makes a false account, record or report, shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00), and may be imprisoned in the county jail for not fewer than ten (10) days nor longer than one year.

Section 580. TAXES AND REPORTS FOR TAX PURPOSES. (1) Mutual aid associations shall be subject to the applicable provisions of the following sections of this code:

- (a) Section 76 (filing, license and miscellaneous fees);
- (b) Section 77 ("premium," "annuity considerations" defined for tax purposes);
- (c) Section 78 (annual tax statement);
- (d) Section 80 (domestic insurers — rate and payment of tax; credits);
- (e) Section 82 (payment of tax in advance);
- (f) Section 83 (penalty for failure to file statement or pay tax);
- (g) Section 85 (counties cannot tax).

(2) A mutual aid association shall be deemed to be an "insurer" for the purposes and within the terms of the sections referred to in subsection (1), above.

Section 581. EXAMINATION OF MUTUAL AID ASSOCIATIONS. The Commissioner shall at least once every three (3) years, and oftener whenever he deems it prudent to do so, examine each mutual aid association doing business in this state. Except as to frequency of examination, such examinations and the association shall be subject to the provisions of chapter 2 of this code as applicable to similar examinations of other insurers.

Section 582. AGENTS OF MUTUAL AID ASSOCIATIONS: PROVISIONS APPLICABLE. Persons representing or aiding a mutual aid association in the solicitation of business, and the mutual aid association with respect thereto, shall be subject to the provisions of chapter 8 of this code (life and disability insurance agents).

Section 583. EXEMPTIONS FROM PROCESS. The interest of resident members and policyholders of mutual aid associations

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therein and of resident beneficiaries provided for thereby, is exempt from all process for the collection of debts, or the enforcement of liabilities.

Section 584. INCORPORATION, FINANCING OF NEW MUTUAL AID ASSOCIATION. New domestic mutual aid associations, whether stock corporations or mutual corporations, shall hereafter be incorporated and financed under the same provisions and procedures as apply to domestic legal reserve stock or mutual insurers under chapter 26 of this code other than provisions made inapplicable under section 589, or in conflict with the express provisions of this chapter; except, that if to be a mutual corporation, its articles of incorporation shall provide either for the contingent liability of its members for the payment of losses and expenses of the association, or the general conditions under which such members may otherwise be required to pay assessments for the payment of such losses and expenses, and the liability of members to assessment shall be further detailed in the corporation's bylaws.

Section 585. INITIAL QUALIFICATIONS — DOMESTIC MUTUAL CORPORATION. (1) When applying for an original certificate of authority, a domestic corporation formed to transact a mutual aid business on the mutual plan, must be otherwise qualified therefor under this code, and must have entered into bona fide agreements for insurance of the kind proposed to be transacted, with not less than five hundred (500) persons, and must have received therefrom as initial premiums, fees, or contributions at rates theretofore filed with and approved by the Commissioner as being both adequate and reasonable, not less than twenty-five thousand dollars (\$25,000.00) in cash.

(2) No such agreements shall be solicited, however, except pursuant to a solicitation permit granted by the Commissioner as provided in sections 500 through 503 of this code.

Section 586. INCREASE, DECREASE OF CAPITAL STOCK. (1) A domestic mutual aid association incorporated on the stock plan, whether heretofore or hereafter formed, may increase or decrease the amount of its authorized capital stock by amendment of its articles of incorporation in the same manner and subject to the same conditions and procedures as apply to domestic stock insurers in general under this code.

(2) As to a corporation formed prior to the effective date of this code no increase of authorized capital stock shall be made which does not bring the amount thereof up to at least fifty thousand dollars (\$50,000.00), and no decrease of authorized capital stock shall be made which reduces authorized capital stock

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below fifty thousand dollars (\$50,000.00).

Section 587. MEMBERSHIP; MEETINGS OF MEMBERS; VOTING RIGHTS. (1) Every holder of a policy, certificate, or benefit agreement issued by the association and then in force shall be deemed to be a member of the association.

(2) Annual and special meetings of the members of a domestic mutual aid association formed on the mutual plan shall be held as provided by the laws of this state for stock insurers.

(3) Notwithstanding the provisions of section 518(2) (a) (bylaws of mutual), each member of the association shall be entitled to one vote upon each matter voted upon at the meeting. Each member shall have the right to attend and vote on all matters before the meeting in person or by written proxy executed at least thirty (30) days prior to the meeting.

Section 588. DIRECTORS OR TRUSTEES. (1) The affairs of every domestic mutual aid association shall be governed by a board of directors or board of trustees consisting of not less than seven (7) members, each of whom must be a member or stockholder of the corporation.

(2) Directors shall be elected by the members or stockholders of the association at the annual meeting of stockholders or members. Directors may be elected for terms of not less than one (1) nor more than five (5) years each and until their successors are elected and have qualified, as provided in the association's bylaws. If to be elected for terms of more than one year, the bylaws shall provide for a staggered term system under which the terms of a proportionate part of the members of the board will expire on the date of each annual meeting of members or stockholders.

(3) A majority of the directors or trustees must at all times be residents of this State.

Section 589. OTHER PROVISIONS APPLICABLE. In addition to those contained or referred to heretofore in this chapter, the following chapters and sections of this code shall apply to mutual aid associations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of such express provisions:

- (1) Chapter 1 (scope of code);
- (2) Chapter 2 (the Commissioner of Insurance);
- (3) The following sections:
 - (a) Section 51 (general eligibility of insurers for certificate of authority).
 - (b) Section 52 (name of insurer).
 - (c) Section 67 (order, notice of suspension or revocation of

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certificate of authority; effect; publication).

(d) Section 68 (duration of suspension; insurer's obligations during suspension period; reinstatement).

(e) Section 72 (licensed representative required).

(f) Section 75 (retaliatory provision).

(g) Section 76 (filing, license and miscellaneous fees).

(4) The following sections of chapter 5 (kind of insurance; limits of risk; reinsurance).

(a) Section 96 (reinsurance).

(5) The following sections of chapters 33 and 34 (liabilities and assets).

(a) Section 745 ("assets" defined).

(b) Section 746 (assets as deductions from liabilities).

(c) Section 747 (assets not allowed).

(d) Section 748 (disallowance of "assets" or "credits" resulting from "wash" transactions).

(e) Section 738 (liabilities, in general), except subsection (4) thereof.

(f) Section 742 (increase of inadequate loss reserves).

(g) Sections 749 (valuation of bonds), 750 (valuation of other securities), 751 (valuation of property), 752 (valuation of funeral supplies, equipment), and 753 (valuation of purchase money mortgages).

(6) Chapter 10 (unauthorized insurers and surplus lines).

(7) Chapter 12 (trade practices and frauds).

(8) Chapter 14 (the insurance contract), except as to the following sections: Sections 321 (filing, approval of forms), 322 (grounds for disapproval), 342 (rights of creditors, beneficiaries under life insurance policies), and 345 (exemption of proceeds, annuity contracts; assignability of rights).

(9) Chapter 15 (life insurance and annuities).

(10) Chapter 16 (industrial life insurance).

(11) Chapter 17 (burial insurance policies).

(12) Chapter 18 (group life insurance).

(13) Chapter 19 (disability insurance policies).

(14) Chapter 20 (group and blanket disability insurance).

(15) Chapter 21 (credit life and disability insurance).

(16) Chapter 26 (organization and corporate procedures of stock and mutual insurers), *except* the following sections:

(a) Section 511 (initial qualifications — domestic mutuals).

(b) Section 516 (additional kinds of insurance, mutuals).

(c) Section 519 (directors; number, election).

(d) Sections 530 (nonassessable policies, mutual insurers), 531 (nonassessable policies, revocation of authority), and 532 (participating policies).

(17) Chapter 29 (rehabilitations and liquidations).

CHAPTER 27

RECIPROCAL INSURERS

Section 590. "RECIPROCAL" INSURANCE DEFINED. "Reciprocal" insurance is that resulting from an interexchange among persons, known as "subscribers," of reciprocal agreements of indemnity, the interexchange being effectuated through an "attorney-in-fact" common to all such persons.

Section 591. "RECIPROCAL INSURER" DEFINED. A "reciprocal insurer" means an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact to provide reciprocal insurance among themselves.

Section 592. SCOPE OF CHAPTER — EXISTING INSURERS. (1) All authorized reciprocal insurers shall be governed by those sections of this chapter not expressly made applicable to domestic reciprocals.

(2) Existing authorized reciprocal insurers shall after the effective date of this code comply with the provisions of this chapter, and shall make such amendments to their subscribers' agreement, power of attorney, policies and other documents and accounts and perform such other acts as may be required for such compliance.

Section 593. INSURING POWERS OF RECIPROCALS. (1) A reciprocal insurer may, upon qualifying therefor as provided for by this code, transact any kind or kinds of insurance defined by this code, other than life or title insurances.

(2) Such an insurer may purchase reinsurance upon the risk of any subscriber, and may grant reinsurance as to any kind of insurance it is authorized to transact direct.

Section 594. NAME; SUITS. A reciprocal insurer shall: (1) Have and use a business name. The name shall include the word "reciprocal," or "interinsurer," or "interinsurance," or "exchange," or "underwriters," or "underwriting."

(2) Sue and be sued in its own name.

Section 595. ATTORNEY. (1) "Attorney," as used in this chapter, refers to the attorney in fact of a reciprocal insurer. The attorney may be an individual, firm or corporation.

(2) Contracts of the insurer, including its policies, shall be executed by the attorney, duly authorized and acting for the subscribers.

(3) The attorney of a foreign or alien reciprocal insurer, which

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insurer is duly authorized to transact insurance in this State, shall not, by virtue of discharge of its duties as such attorney with respect to the insurer's transactions in this State, be thereby deemed to be doing business in this State within the meaning of any laws of this State applying to foreign firms or corporations.

Section 596. SURPLUS FUNDS REQUIRED. (1) A domestic reciprocal insurer hereunder formed, if it has otherwise complied with the applicable provisions of this code, may be authorized to transact insurance if it has and thereafter maintains surplus funds as follows:

(a) To transact property insurance, surplus funds of not less than two hundred thousand dollars (\$200,000.00);

(b) To transact casualty insurance, surplus funds of not less than three hundred thousand dollars (\$300,000.00).

(2) In addition to surplus required to be maintained under subsection (1) above, the insurer shall have, when first so authorized, expendable surplus in amount as required of a like foreign reciprocal insurer under section 55.

(3) A domestic reciprocal insurer may be authorized to transact additional kinds of insurance if it has otherwise complied with the provisions of this code therefor and possesses and so maintains surplus funds in amount equal to the minimum capital stock required of a stock insurer for authority to transact a like combination of kinds of insurance, but subject to section 55 (2) as to additional kinds of insurance and surplus required therefor during the first five (5) years.

Section 597. ORGANIZATION OF RECIPROCAL INSURER.

(1) Twenty-five (25) or more persons domiciled in this State may organize a domestic reciprocal insurer and make application to the Commissioner for a certificate of authority to transact insurance.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the Commissioner when applying for a certificate of authority, a declaration setting forth:

(a) The name of the insurer;

(b) The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this State;

(c) The kinds of insurance proposed to be transacted;

(d) The names and addresses of the original subscribers;

(e) The designation and appointment of the proposed attorney and a copy of the power of attorney;

(f) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(g) The powers of the subscribers' advisory committee; and the names and terms of office of the members thereof;

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(h) That all monies paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(i) A copy of the subscribers' agreement;

(j) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at an adequate rate theretofore filed with and approved by the Commissioner;

(k) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by section 596 of this code is on hand; and

(l) A copy of each policy, endorsement and application form it then proposes to issue or use.

Such declaration shall be acknowledged by the attorney in the manner required for the acknowledgement of deeds.

Section 598. CERTIFICATE OF AUTHORITY. (1) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(2) The Commissioner may refuse, suspend or revoke the certificate of authority, in addition to other grounds therefor, for failure of the attorney to comply with any provision of this code.

Section 599. POWER OF ATTORNEY. (1) The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

(2) The power of attorney must set forth:

(a) The powers of the attorney;

(b) That the attorney is empowered to accept service of process on behalf of the insurer in actions against the insurer upon contracts exchanged;

(c) The general services to be performed by the attorney;

(d) The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer; and

(e) Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount which amount shall be not less than one nor more than ten times the premium or premium deposit stated in the policy.

(3) The power of attorney may:

(a) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

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- (b) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;
 - (c) Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee; and
 - (d) Contain other lawful provisions deemed advisable.
- (4) The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable.

Section 600. MODIFICATIONS. Modifications of the terms of the subscribers' agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory committee. No such modification shall be effective retroactively, nor as to any insurance contract issued prior thereto.

Section 601. ATTORNEY'S BOND. (1) Concurrently with the filing of the declaration provided for in section 597, the attorney of a domestic reciprocal insurer shall file with the Commissioner a bond in favor of this State for the benefit of all persons damaged as a result of breach by the attorney of the conditions of his bond as set forth in subsection (2) hereof. The bond shall be executed by the attorney and by an authorized corporate surety, and shall be subject to the Commissioner's approval.

(2) The bond shall be in the penal sum of twenty-five thousand dollars (\$25,000.00), aggregate in form, conditioned that the attorney will faithfully account for all monies and other property of the insurer coming into his hands, and that he will not withdraw or appropriate to his own use from the funds of the insurer, any monies or property to which he is not entitled under the power of attorney.

(3) The bond shall provide that it is not subject to cancellation unless thirty days' advance notice in writing of cancellation is given both the attorney and the Commissioner.

Section 602. DEPOSIT IN LIEU OF BOND. In lieu of the bond required under section 601, the attorney may maintain on deposit with the State Treasurer through the office of the Commissioner, a like amount in cash or in value of securities qualified for deposit under section 99 of this code, and subject to the same conditions as the bond.

Section 603. ACTION ON BOND. Action on the attorney's bond or to recover against any such deposit made in lieu thereof may be brought at any time by one or more subscribers suffering loss through a violation of its conditions, or by a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and become part of the insurer's funds. The total

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aggregate liability of the surety shall be limited to the amount of the penalty of such bond.

Section 604. SERVICE OF PROCESS — JUDGMENT. (1) Legal process shall be served upon a domestic reciprocal insurer by serving the insurer's attorney at his principal offices or by serving the Commissioner as the insurer's process agent under sections 69 and 70.

(2) Any judgment based upon legal process so served shall be binding upon each of the insurer's subscribers as their respective interests may appear, but in an amount not exceeding their respective contingent liabilities, if any, the same as though personal service of process was had upon each such subscriber.

Section 605. CONTRIBUTIONS TO INSURER. The attorney or other parties may advance to a domestic reciprocal insurer upon reasonable terms such funds as it may require from time to time in its operations. Sums so advanced shall not be treated as a liability of the insurer, and, except upon liquidation of the insurer, shall not be withdrawn or repaid except out of the insurer's realized earned surplus in excess of its minimum required surplus. No such withdrawal or repayment shall be made without the advance approval of the Commissioner. This section does not apply to bank loans, or to other loans made upon security.

Section 606. ANNUAL STATEMENT. (1) The annual statement of a reciprocal insurer shall be made and filed by its attorney.

(2) The statement shall be supplemented by such information as may be required by the Commissioner relative to the affairs and transactions of the attorney in so far as they relate to the reciprocal insurer.

Section 607. FINANCIAL CONDITION — METHOD OF DETERMINING. In determining the financial condition of a reciprocal insurer the Commissioner shall apply the following rules:

(1) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(2) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposits delinquent for ninety (90) days shall first be charged against such surplus deposit.

(3) The surplus deposits of subscribers shall not be charged as a liability.

(4) All premium deposits delinquent less than ninety (90) days shall be allowed as assets.

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(5) An assessment levied upon subscribers, and not collected, shall not be allowed as an asset.

(6) The contingent liability of subscribers shall not be allowed as an asset.

(7) The computation of reserves shall be based upon premium deposits other than membership fees and without any deduction for expenses and the compensation of the attorney.

Section 608. WHO MAY BE SUBSCRIBERS. Individuals, partnerships, and corporations of this State may make application, enter into agreement for and hold policies or contracts in or with and be a subscriber of any domestic, foreign, or alien reciprocal insurer. Any corporation now or hereafter organized under the laws of this State shall, in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority as a subscriber to exchange insurance contracts through such reciprocal insurer. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and to be as fully granted as the rights and powers expressly conferred upon such corporations. Government or governmental agencies, state or political subdivisions thereof, boards, associations, estates, trustees or fiduciaries are authorized to exchange nonassessable reciprocal interinsurance contracts with each other and with individuals, partnerships and corporations to the same extent that individuals, partnerships and corporations are herein authorized to exchange reciprocal interinsurance contracts. Any officer, representative, trustee, receiver, or legal representative of any such subscriber shall be recognized as acting for or on its behalf for the purpose of such contract but shall not be personally liable upon such contract by reason of acting in such representative capacity.

Section 609. SUBSCRIBERS' ADVISORY COMMITTEE. (1) The advisory committee of a domestic reciprocal insurer exercising the subscribers' rights shall be selected under such rules as the subscribers adopt.

(2) Not less than two-thirds of such committee shall be subscribers other than the attorney, or any person employed by, representing, or having a financial interest in the attorney.

(3) The committee shall:

(a) Supervise the finances of the insurer;

(b) Supervise the insurer's operations to such extent as to assure conformity with the subscribers' agreement and power of attorney;

(c) Procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer; and

(d) Have such additional powers and functions as may be

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conferred by the subscribers' agreement.

Section 610. SUBSCRIBERS' LIABILITY. (1) The liability of each subscriber, other than as to a nonassessable policy, for the obligations of the reciprocal insurer shall be an individual, several and proportionate liability, and not joint.

(2) Except as to a nonassessable policy, each subscriber shall have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers' agreement, for payment of actual losses and expenses incurred while his policy was in force. Such contingent liability may be at the rate of not less than one nor more than ten (10) times the premium or premium deposit stated in the policy, and the maximum aggregate thereof shall be computed in the manner set forth in section 614 of this chapter.

(3) Each assessable policy issued by the insurer shall contain a statement of the contingent liability.

Section 611. SUBSCRIBERS' LIABILITY ON JUDGMENT.

(1) No action shall lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for thirty days.

(2) Any such judgment shall be binding upon each subscriber only in such proportion as his interests may appear and in amount not exceeding his contingent liability, if any.

Section 612. ASSESSMENTS. (1) Assessments may from time to time be levied upon subscribers of a domestic reciprocal insurer liable therefor under the terms of their policies by the attorney upon approval in advance by the subscribers' advisory committee and the Commissioner; or by the Commissioner in liquidation of the insurer.

(2) Each subscriber's share of a deficiency for which an assessment is made, but not exceeding in any event his aggregate contingent liability as computed in accordance with section 614 of this chapter, shall be computed by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

(3) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

(4) No subscriber shall have an offset against any assessment for which he is liable, on account of any claim for unearned

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premium or losses payable.

Section 613. TIME LIMIT FOR ASSESSMENTS. Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his share of any assessment, as computed and limited in accordance with this chapter, if:

(1) While his policy is in force or within one year after its termination, he is notified by either the attorney or the Commissioner of his intentions to levy such assessment, or

(2) An order to show cause why a receiver, conservator, rehabilitator or liquidator of the insurer should not be appointed is issued while his policy is in force or within one year after its termination.

Section 614. AGGREGATE LIABILITY. No one policy or subscriber as to such policy, shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by a domestic reciprocal insurer in any one calendar year, in excess of the amount provided for in the power of attorney or in the subscribers' agreement, computed solely upon premium earned on such policy during that year.

Section 615. NONASSESSABLE POLICIES. (1) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the Commissioner shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this State, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this State for so long as all such surplus remains unimpaired.

(2) Upon impairment of such surplus, the Commissioner shall forthwith revoke the certificate. Such revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after such revocation no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

(3) The Commissioner shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer

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is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

Section 616. DISTRIBUTION OF SAVINGS. A reciprocal insurer may from time to time return to its subscribers any unused premiums, savings or credits accruing to their accounts. Any such distribution shall not unfairly discriminate between classes of risks, or policies, or between subscribers, but such distribution may vary as to classes of subscribers, based upon the loss experience of such subscribers.

Section 617. SUBSCRIBERS' SHARE IN ASSETS. Upon the liquidation of a domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy obligations, the return of any contributions of the attorney or other persons to its surplus made as provided in section 605 of this chapter, and the return of any unused premium, savings, or credits then standing on subscribers' accounts, shall be distributed to its subscribers who were such within the twelve (12) months prior to the last termination of its certificate of authority, according to such reasonable formula as the Commissioner may approve.

Section 618. MERGER OR CONVERSION. (1) A domestic reciprocal insurer upon affirmative vote of not less than two-thirds of its subscribers who vote on such merger pursuant to due notice and the approval of the Commissioner of the terms therefor, may merge with another reciprocal insurer or be converted to a stock or mutual insurer.

(2) Such a stock or mutual insurer shall be subject to the same capital or surplus requirements and shall have the same rights as a like domestic insurer transacting like kinds of insurance.

(3) The Commissioner shall not approve any plan for such merger or conversion which is inequitable to subscribers, or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer proportionate to his interest in the reciprocal insurer as determined in accordance with section 617 of this chapter and a reasonable length of time within which to exercise such right.

Section 619. IMPAIRED RECIPROCAL. (1) If the assets of a reciprocal insurer are at any time insufficient to discharge its liabilities, other than any liability on account of funds contributed by the attorney or others, and to maintain the required surplus, its attorney shall forthwith make up the deficiency or levy an

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assessment upon the subscribers for the amount needed to make up the deficiency; but subject to the limitation set forth in the power of attorney or policy.

(2) If the attorney fails to make up such deficiency or to make the assessment within thirty (30) days after the Commissioner orders him to do so, or if the deficiency is not fully made up within sixty (60) days after the date the assessment was made, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this code.

(3) If liquidation of such an insurer is ordered, an assessment shall be levied upon the subscribers for such an amount, subject to limits as provided by this chapter, as the Commissioner determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney or other persons, but including the reasonable cost of the liquidation.

CHAPTER 28

REHABILITATIONS AND LIQUIDATIONS

Section 620. PURPOSE. The purpose of this chapter is to promote effectiveness, economy and uniformity in the rehabilitation, reorganization, conservation, and liquidation of insurers doing business in this State. It is intended that this chapter shall be liberally construed to the end so far as possible that the assets of such insurers shall be effectively conserved, and that in the case of insurers transacting business in more than one state claimants against the insurer shall receive equal and uniform treatment irrespective of residence or the place of the acts or contracts upon which their claims are based.

Section 621. DEFINITIONS. For the purpose of this chapter:

(1) "Impairment" or "insolvency." The capital of a stock insurer, the net assets of a Lloyd's plan insurer, or the surplus of a mutual or reciprocal insurer, shall be deemed to be impaired and the insurer shall be deemed to be insolvent, when such insurer is not possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a Lloyd's plan, mutual or reciprocal insurer required by this code to be maintained for the kind or kinds of insurance it is then authorized to transact.

(2) "Insurer" means any person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by the Commissioner or the equivalent insurance supervisory official of another state.

(3) "Delinquency proceeding" means any proceeding commenced against any insurer pursuant to this chapter for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.

(4) "State" means any state of the United States and also the District of Columbia, and Puerto Rico.

(5) "Foreign country" means territory not in any state.

(6) "Domiciliary state" means the state in which an insurer is incorporated or organized, or in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such state.

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(7) “Ancillary state” means any state other than a domiciliary state.

(8) “Reciprocal state” means any state other than this State in which in substance and effect the provisions of the uniform insurers liquidation act, as defined in section 641 of this code, are in force, including the provisions requiring that the Commissioner of insurance or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(9) “General assets” means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

(10) “Preferred claim” means any claim with respect to which the law of the state or of the United States accords priority of payments from the general assets of the insurer.

(11) “Special deposit claim” means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(12) “Secured claim” means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow or otherwise, but not including special deposit claim or claims against general assets. The term also includes claims which more than four months prior to the commencement of delinquency proceedings in the state of the insurer’s domicile have become liens upon specific assets by reason of judicial process.

(13) “Receiver” means receiver, liquidator, rehabilitator or conservator as the context may require.

Section 622. JURISDICTION OF DELINQUENCY PROCEEDINGS — VENUE — CHANGE OF VENUE — EXCLUSIVENESS OF REMEDY — APPEAL. (1) The Circuit Court sitting in equity shall have original jurisdiction of delinquency proceedings under this chapter and any court with jurisdiction is authorized to make all necessary and proper orders to carry out the purposes of this chapter.

(2) The venue of delinquency proceedings against a domestic insurer shall be in the county of the insurer’s principal place of business. The venue of such proceedings against foreign and alien insurers shall be in the Circuit Court of Montgomery County.

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(3) At any time after the commencement of a proceeding under this chapter the Commissioner may apply to the court for an order changing the venue of, and removing the proceedings to, Montgomery County or to any other county of this State in which he deems that such proceeding may be most economically and efficiently conducted.

(4) Delinquency proceedings pursuant to this chapter shall constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer. No person other than the Commissioner and the Attorney General representing him shall appear in the courts of this State requesting the appointment of a receiver or otherwise commence such delinquency proceedings to take over, liquidate, rehabilitate, reorganize, or conserve an insurer, and no court shall entertain a petition for the commencement of such proceedings unless the same has been filed in the name of the State on the relation of the Commissioner.

(5) An appeal shall lie to the supreme court of Alabama from an order granting or refusing rehabilitation, liquidation, or conservation, and from every order in delinquency proceedings having the character of a final order or decree as to the particular portion of the proceedings embraced therein.

Section 623. COMMENCEMENT OF DELINQUENCY PROCEEDINGS. The Commissioner shall commence any such proceedings by application to the court for an order directing the insurer to show cause why the Commissioner should not have the relief prayed for. On the hearing of such order to show cause, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the policyholders, creditors, stockholders, members, subscribers or the public may require.

Section 624. INJUNCTIONS. (1) Upon application by the Commissioner for such an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

(2) The court may at any time during a proceeding under this chapter issue such other injunctions or orders as may be deemed necessary to prevent interference with the Commissioner or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

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(3) Notwithstanding any other provision of law, no bond shall be required of the Commissioner as a prerequisite for the issuance of any injunction or restraining order pursuant to this section.

Section 625. GROUNDS FOR REHABILITATION — DOMESTIC INSURERS. The Commissioner may apply to the court for an order appointing him as receiver of and directing him to rehabilitate a domestic insurer upon one or more of the following grounds. That the insurer:

(1) Is impaired or insolvent;
 (2) Has refused to submit any of its books, records, accounts or affairs to reasonable examination by the Commissioner;

(3) Has concealed or removed records or assets or otherwise violated section 525 of this code;

(4) Has failed to comply with an order of the Commissioner to make good an impairment of capital or surplus or both;

(5) Has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the Commissioner;

(6) Has wilfully violated its charter or articles of incorporation or any law of this State;

(7) Has an officer, director or manager who has refused to be examined under oath concerning its affairs, for which purposes the Commissioner is hereby authorized to conduct and to enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States, in which any such officer, director or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered;

(8) Has been or is the subject of an application for the appointment of a receiver, trustee, custodian or sequestrator of the insurer or its property otherwise than pursuant to the provisions of this code, but only if such appointment has been made or is imminent and its effect is or would be to oust the courts of this State of jurisdiction hereunder.

(9) Has consented to such an order through a majority of its directors, stockholders, members or subscribers;

(10) Has failed to pay a final judgment rendered against it in this state upon any insurance contract issued or assumed by it, within thirty (30) days after the judgment became final or within thirty days after the time for taking an appeal has expired, or within thirty (30) days after dismissal of an appeal before final termination, whichever date is the later.

Section 626. GROUNDS FOR LIQUIDATION. The Commissioner may apply to the court for an order appointing him as

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receiver (if his appointment as receiver shall not be then in effect) and directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this State, regardless of whether or not there has been a prior order directing him to rehabilitate such insurer, upon any of the grounds specified in section 625 of this chapter, or if such insurer:

- (1) Has ceased transacting business for a period of one year, or
- (2) Is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this code.

Section 627. GROUNDS FOR CONSERVATION — FOREIGN INSURERS. The Commissioner may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this State, of a foreign insurer upon any of the following grounds:

- (1) Upon any of the grounds specified in sections 625 or 626 of this chapter, or
- (2) Upon the ground that its property has been sequestrated in its domiciliary sovereignty or in any other sovereignty.

Section 628. GROUNDS FOR CONSERVATION — ALIEN INSURERS. The Commissioner may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this State, of any alien insurer upon any of the following grounds:

- (1) Upon any of the grounds specified in sections 625 or 626 of this chapter.
- (2) Upon the ground that the insurer has failed to comply, within the time designated by the Commissioner, with an order made by him to make good an impairment of its trusteed funds, or
- (3) Upon the ground that the property of the insurer has been sequestrated in its domiciliary sovereignty or elsewhere.

Section 629. GROUNDS FOR ANCILLARY LIQUIDATION — FOREIGN INSURERS. The Commissioner may apply to the court for an order appointing him as ancillary receiver of and directing him to liquidate the business of a foreign insurer having assets, business or claims in this State upon the appointment in the domiciliary state of such insurer of a receiver, liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of such insurer.

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Section 630. ORDER OF REHABILITATION — TERMINATION. (1) An order to rehabilitate a domestic insurer shall direct the Commissioner forthwith to take possession of the property of the insurer and to conduct the business thereof, and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.

(2) If at any time the Commissioner deems that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

(3) The Commissioner, or any interested person upon due notice to the Commissioner, at any time may apply to the court for an order terminating the rehabilitation proceedings and permitting the insurer to resume possession of its property and the conduct of its business, but no such order shall be made or entered except when, after a hearing, the court has determined that the purposes of the proceeding have been fully accomplished.

Section 631. ORDER OF LIQUIDATION — DOMESTIC INSURERS. (1) An order to liquidate the business of a domestic insurer shall direct the Commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as Commissioner of insurance or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims.

(2) The Commissioner may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of such insurer or at any time after such order has been granted.

Section 632. ORDER OF LIQUIDATION — ALIEN INSURERS. An order to liquidate the business of a United States branch of an alien insurer having trustee assets in this State shall be in the same terms as those prescribed for domestic insurers, save and except only that the assets of the business of such United States branch shall be the only assets included therein.

Section 633. ORDER OF CONSERVATION OR ANCILLARY LIQUIDATION OF FOREIGN OR ALIEN INSURERS. (1) An order to conserve the assets of a foreign or alien insurer shall require the Commissioner forthwith to take possession of the property of the insurer within this State and to conserve it, subject to the further direction of the court.

(2) An order to liquidate the assets in this State of a foreign insurer shall require the Commissioner forthwith to take possession of the property of the insurer within this State and to liquidate it subject to the orders of the court and with due regard

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to the rights and powers of the domiciliary receiver, as provided in this chapter.

Section 634. CONDUCT OF DELINQUENCY PROCEEDINGS AGAINST DOMESTIC AND ALIEN INSURERS. (1) Whenever under this chapter a receiver is to be appointed in delinquency proceedings for a domestic or alien insurer, the court shall appoint the Commissioner as such receiver. The court shall order the Commissioner forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

(2) As a domiciliary receiver, the Commissioner shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer, wherever located, as of the date of entry of the order directing him to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this State, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are herein prescribed for ancillary receivers appointed in this State as to assets located in this State.

(3) The recording of a certified copy of the order directing possession to be taken, or a certified copy thereof, in the office of the Judge of Probate of the county where the proceedings are pending shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded.

(4) The Commissioner as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if deemed desirable for the protection of such assets.

(5) Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by this chapter for the purpose of rehabilitating, liquidating or conserving the affairs or assets of the insurer.

(6) In connection with delinquency proceedings, the Commissioner may appoint one or more special Deputy Commissioners to act for him and he may employ such counsel, clerks and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties

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imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

Section 635. CONDUCT OF DELINQUENCY PROCEEDINGS AGAINST FOREIGN INSURERS. (1) Whenever under this chapter an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this State, the court shall appoint the Commissioner as ancillary receiver. The Commissioner shall file a petition requesting the appointment on the grounds set forth in section 629 of this chapter:

(a) If he finds that there are sufficient assets of the insurer located in this State to justify the appointment of an ancillary receiver, or

(b) If ten (10) or more persons resident in this State having claims against such insurer file a petition with the Commissioner requesting the appointment of such ancillary receiver.

(2) The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer located in this State, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this State. He shall also be entitled to recover the other assets of the insurer located in this State, except that upon the appointment of an ancillary receiver in this State, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this State, and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets as a receiver of an insurer domiciled in this State.

(3) The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this State to recover any assets of such insurer to which he may be entitled under the laws of this state.

Section 636. CLAIMS OF NONRESIDENTS AGAINST DOMESTIC INSURERS. (1) In a delinquency proceeding begun in this State against a domestic insurer, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver.

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All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(2) Controverted claims belonging to claimants residing in reciprocal states may either:

(a) Be proved in this State, or

(b) If ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this State, as provided in section 637 of this chapter with respect to ancillary proceedings in this State, the final allowance of such claim by the courts in the ancillary state shall be accepted in this State as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

Section 637. CLAIMS AGAINST FOREIGN INSURERS. (1) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this State may file claims either with the ancillary receiver, if any, appointed in this State, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(2) Controverted claims belonging to claimants residing in this State may either:

(a) Be proved in the domiciliary state as provided by the law of that state, or

(b) If ancillary proceedings have been commenced in this State, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this State, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least forty days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver within thirty days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this State involving adjudication of the claim. The final allowance of the claim by the courts of this State shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this State.

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Section 638. FORM OF CLAIM — NOTICE — HEARING. (1) All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim, or the basis upon which such amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

(2) All claims filed in this State shall be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter.

(3) Within ten (10) days of the receipt of any claim, or within such further period as the court may, for good cause shown, fix, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

(4) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

Section 639. PRIORITY OF CERTAIN CLAIMS. (1) In a delinquency proceeding against an insurer domiciled in this State, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this State. All such claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where such assets are located.

(2) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this State shall be preferred if like claims are preferred by the laws of that state.

(3) The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such

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sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

(4) The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this chapter, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

Section 640. ATTACHMENT AND GARNISHMENT OF ASSETS. During the pendency of delinquency proceedings in this or any reciprocal state, no action or proceeding in the nature of an attachment, garnishment or execution shall be commenced or maintained in the courts of this State against the delinquent insurer or its assets. Any lien obtained by any such action or proceeding within four (4) months prior to the commencement of any such delinquency proceeding or at any time thereafter shall be void as against any rights arising in such delinquency proceeding.

Section 641. UNIFORM INSURERS LIQUIDATION ACT. (1) Paragraphs (2) to (13) inclusive, of section 621 together with sections 623, 624 and 634 through 641 constitute and may be referred to as the uniform insurers liquidation act.

(2) The uniform insurers liquidation act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it. To the extent that its provisions when applicable conflict with other provisions of this chapter, the provisions of such act shall control.

Section 642. DEPOSIT OF MONIES COLLECTED. The monies collected by the Commissioner in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks or trust companies, and in the case of the insolvency or voluntary or involuntary liquidation of any such depository which is an institution organized and supervised under the laws of this State, such deposits shall be entitled to priority of payment on an equality with any other priority given by the banking laws of this State. The Commissioner

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may in his discretion deposit such monies or any part thereof in a national bank or trust company as a trust fund.

Section 643. EXEMPTION FROM FEES. The Commissioner shall not be required to pay any fee to any public officer in this State for filing, recording, issuing a transcript or certificate or authenticating any paper or instrument pertaining to the exercise by the Commissioner of any of the powers or duties conferred upon him under this chapter, whether or not such paper or instrument be executed by the Commissioner or his deputies, employees or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the Commissioner, or with the subsequent conduct of such action or proceeding.

Section 644. BORROWING ON PLEDGE OF ASSETS. For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer pursuant to this chapter, the Commissioner may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property, whether real, personal or mixed, of such insurer, and the Commissioner subject to the approval of the court shall have power to take any and all other action necessary and proper to consummate any such loan and to provide for the repayment thereof. The Commissioner shall be under no obligation personally or in his official capacity to repay any loan made pursuant to this section.

Section 645. DATE RIGHTS FIXED ON LIQUIDATION. The rights and liabilities of the insurer and of its creditors, policyholders, stockholders, members, subscribers and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this chapter with respect to the rights of claimants holding contingent claims.

Section 646. VOIDABLE TRANSFERS. (1) Any transfer of, or lien upon, the property of an insurer which is made or created within four (4) months prior to the granting of an order to show cause under this chapter with the intent of giving to any creditor a preference or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class and which is accepted by such creditor having reasonable cause to believe that such preference will occur, shall be voidable.

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(2) Every director, officer, employee, stockholder, member, subscriber and any other person acting on behalf of such insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such insurer of the benefit thereof shall be personally liable therefor and shall be bound to account to the Commissioner.

(3) The Commissioner as receiver in any proceeding under this chapter may avoid any transfer of or lien upon the property of an insurer which any creditor, stockholder, subscriber or member of such insurer might have avoided and may recover the property so transferred unless such person was a bona fide holder for value prior to the date of the entering of an order to show cause under this chapter. Such property or its value may be recovered from anyone who has received it except a bona fide holder for value as herein specified.

Section 647. PRIORITY OF CLAIMS FOR COMPENSATION. (1) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months prior to the commencement of a proceeding against the insurer under this chapter, but not exceeding five hundred dollars (\$500.00) for each employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the Commissioner may be paid as soon as practicable after the proceeding has been commenced; except that at all times the Commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of administration.

(2) Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of such employees.

Section 648. OFFSETS. (1) In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this chapter, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection (2) below.

(2) No offset shall be allowed in favor of any such person where:

(a) The obligation of the insurer to such person would not at the date of the entry of any liquidation order or otherwise, as provided in section 645, entitle him to share as a claimant in the assets of the insurer, or

(b) The obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as an offset, or

(c) The obligation of such person is to pay an assessment levied against the members of a mutual insurer, or against the

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subscribers of a reciprocal insurer, or is to pay a balance upon the subscription to the capital stock of a stock insurer.

Section 649. ALLOWANCE OF CERTAIN CLAIMS. (1) No contingent and unliquidated claim shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to this chapter, except that such claim shall be considered, if properly presented, and may be allowed to share where:

(a) Such claim becomes absolute against the insurer on or before the last day for filing claims against the assets of such insurer, or

(b) There is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

(2) Where an insurer has been so adjudicated to be insolvent any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed:

(a) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured, and (b) If such person shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claim against such insurer arising out of his cause of action other than those already presented can be made, and (c) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation.

(3) No judgment against such an insured taken after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default, or by collusion prior to the entry of the liquidation order shall be considered as conclusive evidence in the liquidation proceedings, either of the liability of such insured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

(4) No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or such other date set by the court for determining rights and liabilities as provided in section 645 unless the claimant shall surrender his security to the Commissioner, in which event the claim shall be allowed in the full amount for which it is valued.

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Section 650. TIME TO FILE CLAIMS. (1) If upon the granting of an order of liquidation under this chapter or at any time thereafter during the liquidation proceedings, the insurer shall not be clearly solvent, the court shall, after such notice and hearing as it deems proper, make an order declaring the insurer to be insolvent. Thereupon, regardless of any prior notice which may have been given to creditors, the Commissioner shall notify all persons who may have claims against the insurer and who have not filed proper proofs thereof to present the same to him at a place specified in such notice, within four (4) months from the date of entry of such order, or if the Commissioner certifies that it is necessary, within such longer time as the court shall prescribe. The last day for filing of proofs of claims shall be specified in the notice, and notice shall be given in a manner to be determined by the court.

(2) Proofs of claim may be filed subsequent to the date specified if filed during pendency of the proceedings but no such claim shall share in the distribution of the assets until all allowed claims, proofs of which have been filed before said date, have been paid in full with interest.

Section 651. REPORT FOR ASSESSMENT. Within three (3) years from the date an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer was filed in the office of the clerk of the court by which such order was made, the Commissioner may make his report to the court setting forth:

- (1) The reasonable value of the assets of the insurer,
- (2) The insurer's probable liabilities, and
- (3) The probable necessary assessment, if any, to pay all claims and expenses in full, including expenses of administration.

Section 652. LEVY OF ASSESSMENT. (1) Upon the basis of the report provided for in section 651 of this chapter, including any amendments thereto, the court may of its own motion order the Commissioner to levy one or more assessments against all members of such insurer who, as shown by the records of the insurer, were members (if a mutual insurer) or subscribers (if a reciprocal insurer) at any time within one (1) year prior to the date of issuance of the order to show cause under section 623 of this chapter.

(2) Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with the estimated cost of collection and percentage of uncollectability thereof. The total of all assessments against any member or subscriber with respect to any policy, whether levied pursuant to this chapter or pursuant to any other provision of law,

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shall be for no greater amount than that specified in the policy or policies of the member or subscriber, except that if the court finds that the policy was issued at a rate or premium below the minimum rate lawfully permitted for the risk insured, the court may determine the upper limit of such assessment upon the basis of such minimum rate.

(3) No assessment shall be levied against any member or subscriber with respect to any nonassessable policy issued in accordance with sections 530 or 615 of this code.

Section 653. ORDER TO PAY ASSESSMENT. After levy of assessment as provided in section 652, upon the filing of a further detailed report by the Commissioner, the court shall issue an order directing each member (if a mutual insurer) or each subscriber (if a reciprocal insurer) if he shall not pay the amount assessed against him to the Commissioner on or before a day to be specified in the order, to show cause why he should not be held liable to pay such assessment, together with costs, as hereinafter provided in section 655, and to show cause why the Commissioner should not have judgment therefor.

Section 654. PUBLICATION AND SERVICE OF ASSESSMENT ORDER. The Commissioner shall cause a notice of such assessment order, setting forth a brief summary of the contents of such order to be (1) published in such manner as shall be directed by the court, and (2) enclosed in a sealed envelope, addressed and mailed postage prepaid to each member or subscriber liable thereunder at his last-known address as it appears on the records of the insurer, at least twenty (20) days before the return of the order to show cause provided for in section 653.

Section 655. JUDGMENT UPON ASSESSMENT. (1) Upon the return day of the order to show cause provided for in section 653, if the member or subscriber does not appear and serve duly verified objections upon the Commissioner, the court shall make an order adjudging that such member or subscriber is liable for the amount of the assessment against him, together with costs, and that the Commissioner may have judgment against the member or subscriber therefor.

(2) If, on such return date, the member or subscriber appears and serves duly verified objections upon the Commissioner, there shall be a full hearing before the court, which, after such hearing, shall make such order as the facts shall warrant.

(3) Any such order shall have the same force and effect, shall be entered and docketed and may be appealed from, as if it were a judgment in an original action brought in the court in which the proceeding is pending.

CHAPTER 29

TRUSTEED ASSETS OF ALIEN INSURERS

Section 656. SCOPE OF CHAPTER. This chapter applies to all alien insurers using Alabama as a state of entry to transact insurance in the United States.

Section 657. REQUIRED DEPOSIT OF ASSETS. (1) An alien insurer may use Alabama as a state of entry to transact insurance in the United States by making and maintaining in this State a deposit of assets in trust with a solvent bank or trust company approved by the Commissioner.

(2) The deposit, together with other trust deposits of the insurer held in the United States for the same purpose, shall be in amount not less than the deposits required of an alien insurer under section 59 of this code, and shall consist of cash and/or securities eligible for the investment of the funds of like domestic insurers.

(3) Such a deposit may be referred to as "trusteed assets."

Section 658. EXISTING TRUSTS. All trusts of trustee assets heretofore created and now existing shall be continued under the instruments creating them, unless inconsistent with the provisions of this chapter.

Section 659. PURPOSE AND DURATION. The deposit required by section 657 shall be for the benefit, security and protection of the policyholders, or policyholders and creditors, of the insurer in the United States. It shall be maintained as long as there is outstanding any liability of the insurer arising out of its insurance transactions in the United States.

Section 660. TRUST AGREEMENT; APPROVAL. (1) The deposit referred to in section 657 shall be made under a written trust agreement between the insurer and the trustee, consistent with the provisions of this chapter, and shall be authenticated in such form and manner as the Commissioner may designate or approve.

(2) The agreement shall not be effective until filed with and approved in writing by the Commissioner. The Commissioner shall not approve any trust agreement found by him not to be in compliance with the law, or the terms of which do not in fact provide reasonably adequate protection for the insurer's policyholders or policyholders and creditors in the United States.

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Section 661. AUTHORITY TO EXECUTE TRUST AGREEMENT. An alien insurer proposing to use Alabama as a state of entry to transact insurance in the United States, whether or not it is then authorized to transact insurance in this state, is authorized to make and execute any trust agreement required by this chapter.

Section 662. AMENDMENT OF TRUST AGREEMENT. A trust agreement may be amended, but the amendment shall not be effective until filed with and approved in writing by the Commissioner as being in compliance with this chapter.

Section 663. WITHDRAWAL OF APPROVAL. The Commissioner's approval of any trust agreement or of any amendment thereof may be withdrawn by the Commissioner if he finds upon hearing, after notice thereof to the insurer and the trustee or trustees, that the requisites for such approval, as provided in this chapter, no longer exist.

Section 664. TITLE TO TRUSTEED ASSETS. Title to the trusteed assets is vested in the trustee or trustees and their successors for the purposes of the trust deposit, and the trust agreement shall so provide.

Section 665. ASSETS KEPT SEPARATE. The trustee shall keep the trusteed assets separate from other assets and shall maintain a record thereof sufficient to identify trusteed assets at all times.

Section 666. STATEMENT OF TRUSTEE. (1) The trustee of trusteed assets shall from time to time file with the Commissioner statements, in such form as he may designate and request in writing, certifying the character of such assets and the amounts thereof.

(2) If the trustee fails to file any such statement after request therefor and expiration of a reasonable time thereafter, the Commissioner may suspend or revoke the certificate of authority of the insurer.

Section 667. EXAMINATION OF ASSETS. The Commissioner may examine trusteed assets of any insurer at any time in accordance with the same conditions and procedures governing the examination of insurers in general under chapter 2 of this code.

Section 668. WITHDRAWAL OF ASSETS. (1) The trust agreement shall provide, in substance, that no withdrawals of trusteed assets shall be made by the insurer or permitted by the trustee without the written authorization or approval of the

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Commissioner in advance thereof, except as follows:

(a) Any or all income, earnings, dividends or interest accumulations of the trusteed assets may be paid over to the United States manager of the insurer upon request of the insurer or the manager.

(b) For substitution, coincidentally with such withdrawal, of other securities or assets of value at least equal in amount to those being withdrawn, if such substituted securities or assets are likewise such as are eligible for investment of the funds of like domestic insurers; and if such withdrawal is requested in writing by the insurer's United States manager pursuant to general or specific written authority previously given or delegated by the insurer's board of directors or other similar governing body, and a copy of such authority has been filed with the trustee.

(c) For the purpose of making deposits required by law in any state in which the insurer is or thereafter becomes an authorized insurer, for the protection of the insurer's policyholders or policyholders and creditors in such state or in the United States, if such withdrawal does not reduce the insurer's deposit in this state to an amount less than the minimum deposit required under section 59 (1) (a) and (b) of this code. The trustee shall transfer any assets so withdrawn and in the amount so required to be deposited in the other state direct to the depository required to receive such deposit in such other state, as certified in writing by the public official having supervision of insurance in the other state.

(d) For the purpose of transferring the trusteed assets to an official liquidator, conservator or rehabilitator pursuant to the order of a court of competent jurisdiction.

(2) The Commissioner shall so authorize or approve withdrawal of only such assets as are in excess of the amount of assets required to be so held in trust under section 657, or as may otherwise be consistent with the provisions of this chapter.

(3) If at any time the insurer becomes insolvent, or if its assets held in the United States are less in amount than as required under section 59 (1) of this code, upon determination thereof the Commissioner shall in writing order the trustee to suspend the right of the insurer or any other person to withdraw assets as authorized under subdivisions (a), (b) and (c) of subsection (1) above, and the trustee shall comply with such order and until the further order of the Commissioner.

Section 669. SUBSTITUTION OF TRUSTEE. (1) A new trustee or new trustees may be substituted for the original trustee or trustees of trusteed assets in the event of a vacancy or for other proper cause. Any such substitution shall be subject to the Commissioner's approval.

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(2) If the trustees of any trusteed assets heretofore created are individuals, and if the number of such trustees is reduced to less than three (3) by death, resignation or otherwise, the Commissioner shall require that there be substituted for such trustees a bank or trust company in this state approved by him.

Section 670. CANADIAN INSURERS. The provisions of this chapter applicable to a United States manager shall, in the case of insurers domiciled in Canada, be deemed to refer to the president, vice-president, secretary or treasurer of such a Canadian insurer.

Section 671. EXPENSES. The compensation and expenses of any trustee or trustees of assets of an alien insurer under this chapter shall be borne by the insurer in such amount or on such basis as may be agreed upon by the insurer and the trustees and as set forth in the trust agreement.

CHAPTER 30

FRATERNAL BENEFIT SOCIETIES

Section 672. FRATERNAL BENEFIT SOCIETIES DEFINED. Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of section 676 (1) (b) of this chapter whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter, is hereby declared to be fraternal benefit society.

When used in this chapter the word "society," unless otherwise indicated, means fraternal benefit society.

Section 673. LODGE SYSTEM DEFINED. A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, laws, ritual and rules, which subordinate lodges or branches are required by the laws of the society to hold regular meetings at least once in each month, shall be deemed to be operating on the lodge system.

Section 674. REPRESENTATIVE FORM OF GOVERNMENT DEFINED. A society shall be deemed to have a representative form of government when:

(1) It provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by the society's constitution and laws;

(2) The representatives elected constitute a majority in number and have not less than two-thirds of the votes nor less than the votes required to amend its constitution and laws;

(3) The meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in four (4) calendar years;

(4) Each insured member shall be eligible for election to act or serve as a delegate to such meeting;

(5) The society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body and having powers and duties delegated to it in the constitution or laws of the society;

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(6) Such board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of such body;

(7) The officers are elected either by the supreme legislative or governing body or by the board of directors; and

(8) The members, officers, representatives or delegates shall not vote by proxy.

Section 675. CHAPTER EXCLUSIVE; APPLICABILITY OF OTHER LAWS. Except as herein provided, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

Section 676. EXEMPTED SOCIETIES. (1) Nothing contained in this chapter shall be so construed as to affect or apply to:

(a) Grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(b) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

(c) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars (\$400.00) or disability benefits of not more than three hundred fifty dollars (\$350.00) to any person in any one year, or both; or

(d) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars (\$400.00) or for disability benefits of not more than three hundred fifty dollars (\$350.00) to any one person in any one year, or both.

(2) Any such society or association described in clauses (c) or (d), above, which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph (d) which has more than one thousand (1,000) members, shall not be exempted from the provisions of this chapter but shall comply with all requirements thereof.

(3) No society which, by the provisions of this section, is exempt from the requirements of this chapter, except any society described in paragraph (b), above, shall give or allow, or promise

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to give or allow to any person any compensation for procuring new members.

(4) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this chapter except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

(5) The Commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this chapter.

Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state.

Section 677. LICENSE REQUIRED; EXPIRATION, RENEWAL; FEE; PENALTY. (1) No fraternal benefit society shall transact business in this state unless authorized therefor under a subsisting license issued to the society by the Commissioner.

(2) Societies authorized to transact business in this state as of immediately prior to the effective date of this code may continue such business until the April 1st next succeeding such effective date. The authority of such societies and of all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding April. However, a license so issued shall continue in full force and effect until the new license is issued or specifically refused.

(3) For each such license or renewal the society shall pay the Commissioner fifty dollars (\$50.00).

(4) A duly certified copy or duplicate of the license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

(5) Any person who in this state solicits membership for, or in any manner assists in procuring membership in any fraternal benefit society not currently licensed to do business in this state, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalties prescribed by section 15 of this code (general penalty).

Section 678. FOREIGN OR ALIEN SOCIETY — ADMISSION. (1) No foreign or alien society shall transact business in this state without a license issued by the Commissioner. Any such society may be licensed to transact business in this state upon filing with the Commissioner:

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(a) A duly certified copy of its charter or articles of incorporation;

(b) A copy of its constitution and laws, certified by its secretary or corresponding officer;

(c) A power of attorney to the Commissioner as prescribed in section 719;

(d) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the Commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the Commissioner;

(e) A certificate from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;

(f) Copies of its certificate forms; and

(g) Such other information as he may deem necessary; and upon a showing that its assets are invested in accordance with the provisions of this chapter.

(2) Any foreign or alien society desiring admission to this state shall have the qualifications required of domestic societies organized under this chapter.

Section 679. SUSPENSION, REVOCATION OR REFUSAL OF LICENSE OF FOREIGN OR ALIEN SOCIETY. (1) When the Commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this state:

(a) Has exceeded its powers;

(b) Has failed to comply with any of the provisions of this chapter;

(c) Is not fulfilling its contracts in good faith; or

(d) Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public;

he shall notify the society of his findings, state in writing the reasons for his dissatisfaction and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on such date the society does not show good and sufficient cause why its authority to do business in this state should not be suspended, revoked or refused, he may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn or he may revoke the authority of the society to do business in this state.

(2) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein.

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Section 680. ORGANIZATION — INCORPORATION. Seven (7) or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer, competent to take acknowledgement of deeds, articles of incorporation, in which shall be stated:

(1) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(2) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this chapter, provided that any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal or religious advantages may be set forth among the purposes of the society; and

(3) The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

Section 681. FILING ARTICLES AND DOCUMENTS — PRELIMINARY CERTIFICATE. Such articles of incorporation, duly certified copies of the constitution, laws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year, shall be filed with the Commissioner, who may require such further information as he deems necessary. The bond with sureties approved by the Commissioner shall be in such amount, not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000), as required by the Commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the Commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided.

Section 682. TIME FOR COMPLETING ORGANIZATION. No preliminary certificate granted under the provisions of this section shall be valid after one year from its date or after such further period, not exceeding one year, as may be authorized by

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the Commissioner upon cause shown, unless the five hundred (500) applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

Section 683. INITIAL SOLICITATIONS AND QUALIFICATIONS. Upon receipt of a preliminary certificate from the Commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

(1) Actual bona fide applications for death benefits have been secured aggregating at least five hundred thousand dollars (\$500,000.00) on not less than five hundred (500) lives;

(2) All such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society;

(3) Certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society;

(4) Ten (10) subordinate lodges or branches have been established into which the five hundred (500) applicants have been admitted;

(5) There has been submitted to the Commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(6) It shall have been shown to the Commissioner, by sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred (500) applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least twenty-five hundred dollars (\$2,500.00), all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. Such advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority

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within one year, as herein provided, the premiums shall be returned to the applicants.

Section 684. CERTIFICATE OF COMPLIANCE; CERTIFIED COPY AS EVIDENCE. The Commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The Commissioner shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

Section 685. CONSTITUTION AND LAWS; GENERAL POWERS. (1) Every society shall have the power to adopt a constitution and laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and laws.

(2) A society shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

Section 686. CORPORATE POWERS RETAINED. Any incorporated society authorized to transact business in this state at the time this chapter becomes effective may thereafter exercise all the rights, powers and privileges prescribed in this chapter and in its charter or articles of incorporation as far as consistent with this chapter. A domestic society shall not be required to reincorporate.

Section 687. EXISTING VOLUNTARY ASSOCIATIONS — MAY INCORPORATE. (1) After one year from the effective date of this chapter, no unincorporated or voluntary association shall be permitted to transact business in this state as a fraternal benefit society.

(2) Any domestic voluntary association now authorized to transact business in this state may incorporate and shall receive from the Commissioner a permanent certificate of incorporation as a fraternal benefit society when:

(a) It has completed its conversion to an incorporated society not later than one year from the effective date of this chapter;

(b) It has filed its articles of incorporation and has satisfied the other requirements described in sections 680 through 684; and

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(c) The Commissioner has made such examination and procured whatever additional information he deems advisable.

(3) Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in its original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association shall not affect existing suits, claims or contracts.

Section 688. ARTICLES OF INCORPORATION, CONSTITUTION AND LAWS — AMENDMENTS — SYNOPSIS — CERTIFIED COPIES AS EVIDENCE. (1) A domestic society may amend its articles of incorporation, constitution or laws in accordance with the provisions thereof by action of its supreme legislative or governing body at any regular or special meeting thereof or, if its articles of incorporation, constitution or laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its articles of incorporation, constitution or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within six (6) months from the date of submission thereof, a majority of all of the voting members of the society shall have signified their consent to such amendment by one of the methods herein specified.

(2) No amendment to the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the Commissioner, who shall approve such amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects and purposes of the society. Unless the Commission disapproves any such amendment within sixty (60) days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the Commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves the amendment, the reasons therefor shall be stated in the written notice.

(3) Within ninety (90) days from the approval thereof by the commissioner, all such amendments, or a synopsis thereof, shall be furnished by the society to all members either by mail or by publication in full in the official organ of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which

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show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

(4) Every foreign or alien society authorized to do business in this state shall file with the Commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within ninety (90) days after the enactment of same.

(5) Printed copies of the constitution or laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

Section 689. WAIVER. The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

Section 690. LOCATION OF OFFICE — PLACE OF MEETING — RECORDS IN ENGLISH LANGUAGE. (1) The principal office of any domestic society shall be located in this state. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least five (5) subordinate branches and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state.

(2) The minutes of the proceedings of the supreme or governing body and of the board of directors or corresponding body of a society shall be in the English language.

Section 691. INSTITUTIONS. (1) It shall be lawful for a society to create, maintain and operate charitable, benevolent or educational institutions for the benefit of its members and their families and dependents and for the benefit of children insured by the society. For such purpose it may own, hold or lease personal property or real property located within or without this state, with necessary buildings thereon. Such property shall be reported in every annual statement but shall not be allowed as an admitted asset of such society.

(2) Maintenance, treatment and proper attendance in any such institution may be furnished free or a reasonable charge may be made therefor, but no such institution shall be operated for profit. The society shall maintain a separate accounting of any income and disbursements under this section and report them in its annual statement.

(3) No society shall own or operate funeral homes or

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undertaking establishments.

Section 692. QUALIFICATIONS FOR MEMBERSHIP. A society may admit to benefit membership any person not less than fifteen (15) years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than six (6) months after becoming a benefit member shall furnish additional evidence of insurability acceptable to the society.

Any person admitted prior to attaining the full age of twenty-one (21) years shall be bound by the terms of the application and certificate and by all the laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority had been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs.

Section 693. MEMBER'S SHARE OF DEFICIENCY. A society shall provide in its constitution or laws that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there shall be paid by the member of the society the amount of the member's equitable proportion of such deficiency as ascertained by its board, and that if the payment be not made it shall stand as an indebtedness against the member's certificate and draw interest not to exceed five percent (5%) per annum compounded annually.

Section 694. BENEFITS. (1) A society authorized to do business in this state may provide for the payment of:

- (a) Death benefits in any form;
- (b) Endowment benefits;
- (c) Annuity benefits;
- (d) Temporary or permanent disability benefits as a result of disease or accident;
- (e) Hospital, medical or nursing benefits due to sickness or bodily infirmity or accident; and
- (f) Monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of three hundred dollars (\$300).

(2) Such benefits may be provided on the lives of members or, upon application of a member, on the lives of a member's family, including the member, the member's spouse and minor children, in the same or separate certificates.

Section 695. BENEFITS ON LIVES OF CHILDREN. (1) A society may provide for benefits on the lives of children under the

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minimum age for adult membership but not greater than twenty-one (21) years of age at time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section 694 of this chapter. A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

(2) A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

Section 696. NONFORFEITURE BENEFITS, CASH SURRENDER VALUES, CERTIFICATE LOANS AND OTHER OPTIONS. (1) A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As to certificates issued on and after the effective date of this chapter, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts or contracts of term insurance of uniform amount of fifteen (15) years or less expiring before age sixty-six (66).

(2) In the case of certificates other than those for which reserves are computed on the Commissioners 1958 Standard Ordinary Mortality Table or the 1961 Standard Industrial Table, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, or (a) over (b) as follows:

(a) The reserve under the certificate determined on the basis specified in the certificate; and

(b) The sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to two and one-half percent (2½%) of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

(3) However, in the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than one hundred thirty percent (130%) of those shown by the mortality table specified in the

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certificate for the computation of the reserve.

(4) In the case of certificates for which reserves are computed on the Commissioners 1958 Standard Ordinary Mortality Table or the 1961 Standard Industrial Table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this state applicable to life insurers issuing policies containing like insurance benefits based upon such tables.

Section 697. BENEFICIARIES. (1) The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the society. Every society by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

(2) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, but the portion so paid shall not exceed the sum of five hundred dollars (\$500.00).

(3) If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits are payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member.

Section 698. BENEFITS NOT ATTACHABLE. No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

Section 699. NO PERSONAL LIABILITY. The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society.

Section 700. THE CONTRACT. (1) Every society authorized to do business in this state shall issue to each benefit member a certificate specifying the amount of benefits provided thereby.

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The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

(2) All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

(3) Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, except that no change, addition, or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

(4) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

Section 701. STANDARD PROVISIONS. (1) After one year from the effective date of this chapter, no life benefit certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with the Commissioner.

(2) The certificate shall contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:

(a) Title on the face and filing page of the certificate clearly and correctly describing its form;

(b) A provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate;

(c) A provision that the member is entitled to a grace period of not less than a full month (or thirty (30) days at the option of the society) in which the payment of any premium after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate;

(d) A provision that the member shall be entitled to have the

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certificate reinstated at any time within three (3) years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding six percent (6%) per annum compounded annually;

(e) Except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of fifteen (15) years or less expiring before age sixty-six (66), a provision that, in the event of default in payment of any premium after three (3) full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provided, the society will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this chapter. The certificate may provide, if the society's laws so specify or if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate;

(f) A provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than sixty (60) days after the due date of the premium in default;

(g) A statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

(h) A table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first twenty (20) certificate years or during the term of the certificate whichever is shorter;

(i) A provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two (2) years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent

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disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of two (2) years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of two (2) years from date of reinstatement with the same exceptions as herein provided;

(j) A provision that in case the age of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age; but if the correct age was not an insurable age under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age according to the society's promulgated rates and any extension thereof based on actuarial principles;

(k) A provision or provisions which recite fully, or which set forth the substance of, all sections of the charter, constitution, laws, rules or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit or benefits payable under the certificate; and

(l) If the constitution or laws of the society provide for expulsion or suspension of a member, any member so expelled or suspended, except for non-payment of a premium or within the contestable period for material misrepresentations in such member's application for membership shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

(3) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

Section 702. PROHIBITED PROVISIONS. After one year from the effective date of this chapter, no life benefit certificate shall be delivered or issued for delivery in this state containing in substance any of the following provisions:

(1) Any provision limiting the time with which any action at law or in equity may be commenced to less than two (2) years

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after the cause of action accrues;

(2) Any provision by which the certificate purports to be issued or to take effect more than six (6) months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; or

(3) Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan which the total indebtedness, including interest, is less than the loan value of the certificate.

Section 703. "PREMIUMS" DEFINED. As used in this chapter "premiums" means premiums, rates, or other required contributions by whatever name known.

Section 704. ACCIDENT AND HEALTH INSURANCE AND TOTAL AND PERMANENT DISABILITY INSURANCE CERTIFICATES — FILING AND APPROVAL. (1) No domestic, foreign or alien society authorized to do business in this state shall issue or deliver in this state any certificate or other evidence of any contract of accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the Commissioner.

(2) The Commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to the provisions of chapter 19 of this code (disability insurance policies). Where the Commissioner deems inapplicable, either in part or in their entirety, the provisions of chapter 19, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member.

(3) Any filing made hereunder shall be deemed approved unless disapproved within sixty (60) days from the date of such filing.

Section 705. REINSURANCE. A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer (other than another fraternal benefit society) having the power to make such reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the Commissioner; but no such society may reinsure substantially all of its insurance in force without the

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written permission of the Commissioner. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this chapter, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

Section 706. FUNDS. (1) All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract.

(2) A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

(3) Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after one year from the effective date of this chapter, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses.

Section 707. INVESTMENTS. A society shall invest its funds only in such investments as are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

Section 708. ANNUAL STATEMENT. (1) Report shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section.

(2) Every society transacting business in this state shall annually, on or before the first day of March, unless for cause shown such time has been extended by the Commissioner, file with the Commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of ten dollars (\$10) for filing same. The statement shall be in

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general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the Commissioner.

(3) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

Section 709. ANNUAL VALUATION OF CERTIFICATES.

(1) As a part of the annual statement required under section 708, each society shall, on or before the first day of March, file with the Commissioner a valuation of its certificates in force on December 31 last preceding, provided, the Commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more than two (2) calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of such society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this chapter shall be determined in accordance with the provisions of law applicable prior to the effective date of this chapter and as to certificates issued on or after one year from the effective date of this chapter shall not be less than the reserves determined according to the Commissioners' Reserve Valuation Method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the mid-year or tabular values are not appropriate.

(2) Reserves according to the Commissioners' Reserve Valuation Method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then present value of any future modified net premiums therefor.

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The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of (a) over (b), as follows:

(a) A net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; provided however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate; and

(b) A net one-year term premium for such benefits provided for in the first certificate year.

(3) Reserves according to the Commissioners' Reserve Valuation Method for (a) life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, (b) annuity and pure endowment benefits, (c) disability and accidental death benefits in all certificates and contracts, and (d) all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of subsection (2), above.

(4) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in subsections (6) and (7) below.

(5) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the Department of Insurance of the state of domicile of the society.

(6) The minimum standards of valuation for certificates issued prior to one year from the effective date of this chapter shall be those provided by the law applicable immediately prior to the effective date of this chapter but not lower than the standards used in the calculating of rates for such certificates.

(7) The minimum standard of valuation for certificates issued after one year from the effective date of this chapter shall be three and one-half percent (3½%) interest and the following tables:

(a) For certificates of life insurance — American Men Ultimate Table of Mortality, with Bowerman's or Davis' extension thereof or with the consent of the Commissioner, the Commissioner's 1958 Standard Ordinary Mortality Table or the Commissioner's 1941 Standard Industrial Table of Mortality or the Commissioner's 1961 Standard Industrial Table Mortality.

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(b) For annuity certificates, including life annuities provided or available under optional modes of settlement in such certificates — the 1937 Standard Annuity Table;

(c) For disability benefits issued in connection with life benefit certificates — Hunter's Disability Table, which, for active lives, shall be combined with a mortality table permitted for calculating the reserves on life insurance certificates, except that the table known as Class 3 Disability Table (1926) modified to conform to the contractual waiting period, shall be used in computing reserves for disability benefits under a contract which presumes that total disability shall be considered to be permanent after a specified period;

(d) For accidental death benefits issued in connection with life benefit certificates — the Inter-Company Double Indemnity Mortality Table combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

(e) For non-cancellable accident and health benefits — the Class 3 Disability Table (1926) with conference modifications or, with the consent of the Commissioner, tables based upon the society's own experience.

(8) The Commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The Commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this state. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the Commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

(9) Any society, with the consent of the insurance supervisory official of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required hereunder, but the contractual rights of any insured member shall not be affected thereby.

Section 710. ANNUAL STATEMENT — PENALTY FOR FAILURE TO FILE OR TO COMPLY. A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars (\$100) for each day during which such neglect continues, and, upon notice by the Commissioner to that effect, its authority to do business in this state shall cease while such default continues.

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Section 711. EXAMINATION OF DOMESTIC SOCIETIES.

(1) The Commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society and he shall make such examination at least once in every three (3) years. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society.

(2) In making any such examination the Commissioner may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society.

(3) A summary of the report of the Commissioner and such recommendations or statements of the Commissioner as may accompany such report, shall be read at the first meeting of the board of directors or corresponding body of the society following the receipt thereof, and if directed so to do by the Commissioner, shall also be read at the first meeting of the supreme legislative or governing body of the society following the receipt thereof. A copy of the report, recommendations and statements of the Commissioner shall be furnished by the society to each member of such board of directors or other governing body.

(4) The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the Commissioner.

Section 712. EXAMINATION OF FOREIGN AND ALIEN SOCIETIES. The Commissioner, or any person whom he may appoint, may examine any foreign or alien society transacting or applying for admission to transact business in this state. He may employ assistants and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. He may in his discretion accept, in lieu of such examination, the examination of the Insurance Department of the state, territory, district, province or country where such society is organized. The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been valued, upon statements furnished by the Commissioner.

Section 713. NO ADVERSE PUBLICATIONS. Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the Commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting

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the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

Section 714. TAXATION. Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax other than taxes on real estate and office equipment.

Section 715. LICENSING OF AGENTS. (1) A fraternal benefit society shall solicit applications for insurance or annuities only through agents of the society licensed as such agents by the Commissioner under and subject to the same provisions and procedures as apply to life and disability insurers in general under chapter 8 of this code.

(2) For the purposes of this section the term "agent" or "agents" shall not include:

(a) Any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) Any agent or representative of a society who devotes, or intends to devote, less than fifty percent of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars (\$50,000.00), or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than twenty-five individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, fifty percent of his time to the solicitation or procurement of insurance contracts for such society.

Section 716. UNLICENSED SOLICITATION, COMPENSATION PROHIBITED. (1) Any person who in this state acts as insurance agent for a fraternal benefit society without having a currently effective license therefor issued by the Commissioner shall upon conviction thereof be guilty of a misdemeanor and shall be subject to penalties as prescribed in section 15 of this code.

(2) No society shall pay any commission or other compensa-

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tion to any person for services in this state in the solicitation of any application for insurance or an annuity, except to an agent of the society licensed as provided in section 715.

Section 717. MISREPRESENTATION. No person shall cause or permit to be made, issued or circulated in any form:

(1) Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued or to be issued in this state, or the financial condition of any society;

(2) Any false or misleading estimate or statement concerning the dividends or shares of surplus paid or to be paid by any society on any insurance contract; or

(3) Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract. A comparison of insurance contracts is incomplete if it does not compare in detail:

(a) The gross rates, and the gross rates less any dividend or other reduction allowed at the date of the comparison; and

(b) Any increase in cash values, and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured;

or if it omits from consideration:

(c) Any benefit or value provided in the contract;

(d) Any differences as to amount or period of rates; or

(e) Any differences in limitations or conditions or provisions which directly or indirectly affect the benefits.

In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

(4) Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation, shall upon conviction be punished by a fine not less than one hundred dollars nor more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail not less than thirty (30) days nor more than ninety (90) days, or both fine and imprisonment and shall in addition, be liable for a civil penalty in the amount of three (3) times the sum received by such violator as compensation or commission, which penalty may be sued for and recovered by any person or society aggrieved for his or its own use and benefit in accordance with the provisions of civil practice.

Section 718. DISCRIMINATION AND REBATES. (1) No society doing business in this state shall make or permit any unfair

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discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes.

(2) No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, any valuable consideration or inducement to, or for insurance, on any risk authorized to be taken by such society, which is not specified in the certificate. No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement not specified in the contract of insurance.

Section 719. SERVICE OF PROCESS. (1) Every society authorized to do business in this state shall appoint in writing the Commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by the Commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

(2) Service shall only be made upon the Commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the Commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided. At the time of serving any process upon the Commissioner, the plaintiff or complainant in the action shall pay to the Commissioner a fee of two dollars (\$2.00).

Section 720. CONSOLIDATIONS AND MERGERS. (1) A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the Commissioner:

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(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the Commissioner but not earlier than December 31, next preceding the date of the contract;

(c) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and

(d) Evidence that at least sixty (60) days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official organ of each society.

(2) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

(3) If the Commission finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state and a certificate of such approval filed with the Commissioner or, if the laws of such state contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the insurance supervisory official of such state and a certificate of such approval filed with the Commissioner.

Section 721. CONSOLIDATIONS AND MERGERS — EFFECT. Upon the consolidation or merger effective as provided in section 720, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument; except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired

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by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

Section 722. INJUNCTION — LIQUIDATION — RECEIVER-SHIP OF DOMESTIC SOCIETY. (1) When the Commissioner upon investigation finds that a domestic society:

- (a) Has exceeded its powers;
 - (b) Has failed to comply with any provision of this Chapter;
 - (c) Is not fulfilling its contracts in good faith;
 - (d) Has a membership of less than four hundred (400) after an existence of one year or more; or
 - (e) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business;
- he shall notify the society of his findings, state in writing the reasons for his dissatisfaction, and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

(2) If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the Commissioner may present the facts relating thereto to the Attorney General who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto. The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

(3) No society so enjoined shall have the authority to do business until:

- (a) The Commissioner finds that the violation complained of has been corrected;
- (b) The costs of such action have been paid by the society if the court finds that the society was in default as charged;
- (c) The court has dissolved its injunction; and
- (d) The Commissioner has reinstated the society's license.

(4) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

(5) No action under this section shall be recognized in any court of this state unless brought by the Attorney General upon

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request of the Commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the Commissioner as such receiver.

(6) The provisions of this section relating to hearing by the Commissioner, action by the Attorney General at the request of the Commissioner, hearing by the court, injunction and receivership shall be applicable to a society which voluntarily determines to discontinue business.

Section 723. INJUNCTION. No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this state unless made by the Attorney General upon request of the Commissioner.

Section 724. REVIEW. All decisions and findings of the Commissioner made under the provisions of this chapter shall be subject to review by the court in accordance with the provisions of section 47 of this code.

Section 725. FALSE STATEMENTS; PENALTY. Any person who wilfully makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any fraternal benefit society, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who wilfully makes any false statement in any verified report or declaration under oath required or authorized by law as to fraternal benefit societies, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury.

Section 726. OTHER PROVISIONS APPLICABLE. In addition to the provisions heretofore contained or referred to in this chapter, other chapters and provisions of this code shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications thereof, as follows:

- (1) Chapter 1 (scope of code).
- (2) Chapter 2 (Commissioner of Insurance).
- (3) The following sections of chapter 3 (authorization of insurers and general requirements):
 - (a) Section 51 (3) (management and affiliations).
 - (b) Section 52 (name of insurer).
- (4) The following sections of chapter 10 (unauthorized insurers and surplus lines):
 - (a) Section 191 (representing or aiding unauthorized insurer prohibited).

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(b) Section 192 (representation of unauthorized insurers — agents, adjusters — Liability, penalty).

(c) Section 193 (suits by unauthorized insurers prohibited).

(5) Chapter 12 (trade practices and frauds).

(6) Section 374 (prohibited policy plans).

(7) The following sections of chapter 25 (organization and corporate procedures of domestic stock and mutual insurers):

(a) Section 522 (prohibited pecuniary interest of officials).

(b) Section 523 (management and exclusive agency contracts).

(c) Section 525 (home office and records; penalty for unlawful removal of records).

(d) Section 546 (extinguishment of unused corporate charters).

(8) Chapter 28 (rehabilitations and liquidations).

CHAPTER 31

CONVERSION OF FRATERNAL BENEFIT SOCIETIES

Section 727. CONVERSION AUTHORIZED. Any fraternal benefit society organized under the laws of this state may convert itself into a stock life insurance company or a mutual life insurance company, which may be a continuation of such society under an amended charter if such society be then incorporated, or a new corporation formed for such purpose if such society be then unincorporated. In either event the conversion of such society into a stock life insurance company or a mutual life insurance company shall be effected as provided in this chapter.

Section 728. FILING, APPROVAL OF PLAN. (1) The proposed plan for the conversion of the society into a stock or mutual life insurer shall be prepared in writing, setting forth in full the terms and conditions thereof. After approval of the plan by the society's board of directors, the society shall file the plan of conversion with the commissioner.

(2) If upon examination thereof the commissioner is of the opinion that the plan is complete, is in compliance with the law, is fair and equitable to the certificate holders and interests of the society, and that no reasonable objection thereto exists, he shall approve the plan; if he finds otherwise, the commissioner shall disapprove the plan. If not disapproved and written notice thereof given the society within thirty (30) days after the date of filing with the Commissioner, the plan shall be deemed to have been approved as of the expiration of such thirty (30) days' period. In any such notice of disapproval the commissioner shall state the reasons for disapproval.

(3) No society shall effectuate any plan of conversion which has been disapproved by the Commissioner.

Section 729. NOTICE TO LODGES. After the plan of conversion has been approved by the Commissioner, the society shall mail notice by registered or certified mail to all of its subordinate lodges or branches, by whatever name called, stating that a proposal will be made at a meeting of the supreme governing or legislative body of the society to be held at least ninety (90) days after the mailing of the notice, to convert the society into a stock or mutual life insurer, and enclosing a copy of the proposed plan of conversion.

Section 730. RATIFICATION OR AMENDMENT OF ARTICLES OF INCORPORATION. Pursuant to the notice provided for in section 733, the supreme governing or legislative body shall

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adopt a resolution authorizing the conversion of the society into a stock or mutual insurer, as the case may be, and shall ratify articles of incorporation, if the society is then unincorporated, or amend the society's articles of incorporation if it is then incorporated, to comply with the requirements of this code (incorporation).

Section 731. FILING, RECORDING OF ARTICLES. (1) The articles of incorporation so adopted, or as so amended, as the case may be, shall be filed with the probate judge, as required of domestic insurers under this code, except that no bond or solicitation permit shall be required.

(2) At the time of filing of articles of incorporation or amended articles of incorporation with the Commissioner, the society shall likewise file a report of the meeting of its supreme governing or legislative body referred to in sections 729 and 730, certified by the presiding officer thereof under the corporate seal, if the society has a corporate seal.

Section 732. CORPORATE EXISTENCE AS STOCK OR MUTUAL INSURER. The society shall have corporate existence as a domestic stock or mutual life insurer upon issuance of the certificate of incorporation by the Commissioner, or approval of the amended articles of incorporation, as the case may be; but it shall not transact business as an insurer until all its authorized capital stock (if a stock insurer) has been subscribed and paid in full, and it has otherwise qualified for and received from the Commissioner a certificate of authority as provided in this code for legal reserve insurers.

Section 733. RIGHT OF MEMBERS TO SUBSCRIBE TO STOCK. If the fraternal benefit society is to be converted into a stock life insurer, the plan of conversion shall make reasonable provisions under which each adult certificate holder of the society shall have the preemptive right to subscribe to and purchase that proportion of the total authorized capital which the amount of his insurance bears to the society's total insurance in force at a date to be specified in such plan; except, that if more than seventy-five percent (75%) of the society's adult certificate holders are residents of this state, such preemptive right may in the Commissioner's discretion, under the plan be limited to such residents.

Section 734. EFFECT OF CONVERSION. (1) When a fraternal benefit society has complied with the provisions of this chapter and with the laws of this state relating to domestic stock life insurers or domestic mutual life insurers, as the case may be,

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and has received from the commissioner a certificate of authority to transact business in this state, its reorganization and conversion into such stock insurer or mutual insurer shall be complete.

(2) The reorganized and converted corporation shall be deemed in law to be a continuation of the fraternal benefit society, whether the reorganization and conversion shall have been accomplished by the formation of a new corporation or by the amendment of the certificate of incorporation of the former society; and such reorganized and converted corporation shall succeed to and become invested with all and singular the rights, privileges, franchises, and all property, real, personal or mixed, and all debts due on any account, and all other things in action, theretofore belonging to such fraternal benefit society; and all property, rights, privileges, franchises, and all and every other interest, shall thereafter be as effectually the property of such reorganized and converted corporation as they were of the former fraternal benefit society; and the title to any real estate, by deed or otherwise vested in such former fraternal benefit society, shall vest in such reorganized and converted corporation and shall not in any way be impaired by reason of the conversion.

Section 735. RIGHTS OF CREDITORS. Rights of creditors, and all liens upon the property of the former fraternal benefit society, shall be preserved unimpaired after the society's conversion, and the former fraternal benefit society shall be deemed to continue in existence in order to preserve the same; and all debts, liabilities and duties of the former fraternal benefit society shall thenceforth attach to the reorganized and converted corporation and may be enforced against it to the same extent as if said debts, duties and liabilities had been incurred or contracted by it.

Section 736. CONVERTED INSURER SHALL DISCHARGE SOCIETY'S INSURANCE OBLIGATIONS; PENDING SUITS. (1) The reorganized and converted corporation shall be obligated to carry out and perform all of the obligations of every kind and character owing by the former fraternal benefit society to the holders of its policies or beneficial certificates, and the same may be enforced against it to the same extent as if the policies and beneficial certificates had been issued by it after such conversion.

(2) Any pending suits wherein the former fraternal benefit society was a party shall be unaffected by the conversion thereof and shall be prosecuted by or against such reorganized and converted corporation the same as if the conversion had not taken place.

Section 737. TAX ON FRATERNAL PREMIUMS. The insurer, after conversion from a fraternal benefit society, shall

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maintain separate record of premiums received by it on account of policies and certificates originally issued while a fraternal benefit society and continuing in force without material change as to form or basis of premium. All such premiums shall be exempt from premium taxes to the same extent, if any, as to which exempted if currently received by a domestic fraternal benefit society.

CHAPTER 32

LIABILITIES

Section 738. LIABILITIES, IN GENERAL. In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any.

(2) The amount, estimated consistent with the provisions of this code, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

(3) With reference to life and disability insurance and annuity contracts:

(a) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to this code which are applicable thereto.

(b) Reserves for disability benefits, for both active and disabled lives.

(c) Reserves for accidental death benefits.

(d) Any additional reserves which may be required by the Commissioner consistent with practice as last formulated or approved by the national association of insurance commissioners, or its successor organization, on account of such insurance.

(4) With reference to insurance other than specified in subsection (3) of this section, and other than title insurance, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this chapter.

(5) Taxes, expenses and other obligations due or accrued at the date of the statement.

(6) In the case of life insurers, a securities valuation reserve calculated in accordance with the rules of the Commissioner, which rules shall not be inconsistent with the rules and regulations promulgated by the national association of insurance commissioners or its successor organization.

Section 739. UNEARNED PREMIUM RESERVE. (1) As to insurance against loss or damage to property (except as provided in section 740), and as to all general casualty insurance and surety insurance, every insurer shall maintain an unearned premium reserve on all policies in force.

(2) The Commissioner may require that such reserves shall be equal to the unearned portions of the gross premiums in force after deducting applicable reinsurance in solvent insurers as

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computed on each respective risk from the policy's date of issue. If the Commissioner does not so require, the portions of the gross premium in force, less applicable reinsurance in solvent insurers, to be held as an unearned premium reserve, shall be computed according to the following table:

Term for Which Policy Was Written		Reserve for Unearned Premium
1 year or less		1/2
2 years	1st year	3/4
	2nd year	1/4
3 years	1st year	5/6
	2nd year	1/2
	3rd year	1/6
4 years	1st year	7/8
	2nd year	5/8
	3rd year	3/8
	4th year	1/8
5 years	1st year	9/10
	2nd year	7/10
	3rd year	1/2
	4th year	3/10
	5th year	1/10
Over 5 years	pro rata	

(3) In lieu of computation according to the foregoing table, the insurer at its option may compute all of such reserves on a monthly or more frequent pro rata basis.

(4) After adopting a method for computing such reserve, an insurer shall not change methods without approval of the insurance supervisory official of its state of domicile.

(5) This section does not apply to title insurance.

Section 740. UNEARNED PREMIUM RESERVE FOR MARINE AND TRANSPORTATION INSURANCE. As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned; and the Commissioner may require the insurer to carry a reserve equal to one hundred percent of premiums on trip risks written during the month ended as of the date of statement.

Section 741. RESERVE FOR DISABILITY INSURANCE. For all disability insurance policies the insurer shall maintain an active life reserve which shall place a sound value on its liabilities under such policies and be not less than the reserve according to appropriate standards set forth in regulations issued by the Commissioner and, in no event, less in the aggregate than the pro rata gross unearned premiums for such policies.

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Section 742. INCREASE OF INADEQUATE LOSS RESERVES. If loss experience shows that an insurer's loss reserves, however computed or estimated, are inadequate, the Commissioner shall require the insurer to maintain loss reserves in such increased amount as is needed to make them adequate.

Section 743. TITLE INSURANCE RESERVE. (1) In addition to an adequate reserve as to outstanding losses as required under section 738, a title insurer shall maintain an unearned premium reserve of not less than an amount computed as follows:

(a) Ten percent (10%) of the total amount of the risk premiums written in the calendar year for title insurance contracts shall be assigned originally to the reserve.

(b) During each of the twenty (20) years next following the year in which the title insurance contract was issued, the reserve applicable to the contract shall be reduced by five percent (5%) of the original amount of such reserve.

(2) The insurer may credit upon the reserve provided for by this section the amount of its deposit made under section 58.

(3) Title insurance risk premium shall not include charges for abstracting, record searching, certificates as to the record title, escrow and closing services, and other related services which may be offered or furnished, or the costs and expenses of examination of titles.

Section 744. STANDARD VALUATION LAW — LIFE INSURANCE. (1) This section shall be known as the standard valuation law.

(2) Annual valuation. The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in the calculation of such reserves. In the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States. In calculating such reserves, the Commissioner may use group methods and approximate averages for fractions of a year or otherwise. He may accept in his discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided, and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Commis-

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sioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. Where any such valuation is made by the Commissioner, he may use the actuary of the Department or employ an actuary for the purpose, and the reasonable compensation and expenses of the actuary, at a rate approved by the Commissioner, upon demand by the Commissioner supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the Commissioner with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the Commissioner, the valuation shall be verified by the actuary of the Department without cost to the insurer.

(3) The minimum standard for the valuation of all such policies and contracts issued prior to the operative date of section 373 of this code (standard nonforfeiture law) shall be as required under laws in effect immediately prior to the effective date of this Act, or the minimum provided in subsection (4) of this section if less.

(4) The minimum standard for the valuation of all such policies and contracts issued on or after the operative date of section 373 (standard nonforfeiture law) shall be the Commissioners reserve valuation method defined in subsection (5) of this section, three-and-one-half percent interest and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1958 Standard Ordinary Mortality Table; except, that for any category of such policies issued on female risks modified net premiums and present values, referred to in subsection (5), may be calculated, according to an age not more than three years younger than the actual age of the insured.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioner's 1961 Standard Industrial Mortality Table.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity Table for 1949, Ultimate, or any modification of either of these tables approved by the Commissioner.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such

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policies, the Group Annuity Mortality Table for 1951, any modification of such table approved by the Commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after the operative date of section 373, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued prior to the operative date of section 373, either such tables or, at the option of the insurer, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserve for life insurance policies.

(f) For accidental death benefits in or supplementary to policies, for policies issued on or after the operative date of section 373, the 1959 Accidental Death Benefits Table; for policies issued prior to the operative date of section 373, either such table or, at the option of the insurer, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the Commissioner as being sufficient with relation to the benefits provided by such policies.

(5) Commissioners Reserve Valuation Method.

(a) Reserves according to the Commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits (excluding extra premiums on a substandard policy) that the present value at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (i) over (ii) as follows:

(i) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each

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subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(ii) A net one-year term premium for such benefits provided for in the first policy year.

(b) Reserves according to the Commissioners reserve valuation method for:

(i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,

(ii) annuity and pure endowment contracts,

(iii) disability and accidental death benefits in all policies and contracts, and

(iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of subsection (5) (a) of this section.

(6) Minimum Aggregate Reserves. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of section 373, be less than the aggregate reserves calculated in accordance with the method set forth in subsection (5) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(7) Optional Reserve Basis. (a) Reserves for all policies and contracts issued prior to the operative date of section 373 may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(b) For any category of policies, contracts or benefits specified in subsection (4) of this section, issued on or after the operative date of section 373 (the standard nonforfeiture law), reserves may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein, provided, however, that reserves for participating life insurance policies issued on or after the operative date of section 373 (the standard nonforfeiture law) may, with the consent of the Commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the

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nonforfeiture benefits by more than one-half ($\frac{1}{2}$) of one percent (1%), the insurer issuing such policy shall file with the Commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the Commissioner shall approve.

(8) Lower valuations. An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with written notice thereof to the Commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(9) Deficiency Reserves. If the gross premium charged by any life insurer on any policy or contract issued on or after the operative date of section 373 is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

CHAPTER 33

ASSETS

Section 745. "ASSETS" DEFINED. In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(1) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(2) Investments, securities, properties and loans acquired or held in accordance with this code, and in connection therewith the following items:

(a) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(b) Declared and unpaid dividends on stock and shares, unless such amount has otherwise been allowed as an asset.

(c) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.

(d) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the Commissioner a collectible asset.

(e) Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of 18 months be allowed as an asset.

(f) Rent due or accrued on real property if such rent is not in arrears for more than three months, and rent more than three months in arrears if the payment of such rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral.

(g) The unaccrued portion of taxes paid prior to the due date on real property.

(3) Premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy.

(4) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer.

(5) Premiums in the course of collection, other than for life insurance, not more than three months past due, less commissions payable thereon. The foregoing limitation shall not apply to

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premiums payable directly or indirectly by the United States government or by any of its instrumentalities.

(6) Instalment premiums other than life insurance premiums to the extent of the unearned premium reserve carried on the policy to which premiums apply.

(7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon.

(8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under section 96.

(9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty.

(10) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the Commissioner available for the payment of losses and claims and at values to be determined by him.

(11) Electronic and mechanical machines constituting a data processing and accounting system if the cost of such system is at least Ten Thousand Dollars (\$10,000), which costs shall be amortized in full over a period not to exceed 10 calendar years.

(12) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the Commissioner for the kinds of insurance to be reported upon therein.

(13) Other assets, not inconsistent with the provisions of this section, deemed by the Commissioner to be available for the payment of losses and claims, at values to be determined by him.

Section 746. ASSETS AS DEDUCTIONS FROM LIABILITIES. Assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to the insurer as prescribed by the Commissioner, or otherwise in his discretion.

Section 747. ASSETS NOT ALLOWED. In addition to assets impliedly excluded by the provisions of section 745, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names and other like intangible assets.

(2) Advances to officers, directors and controlling stockholders (other than policy loans) unless the same are secured by

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collateral satisfactory to the Commissioner, and advances to employees, agents and other persons on personal security only.

(3) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.

(4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies, except (a) such personal property as is acquired through foreclosure of chattel mortgages under loans insured or guaranteed under provisions of the National Housing Act or any Act of Congress relating to Veterans Benefits; (b) such as is reasonably necessary for the maintenance and operation of real estate held by it other than real estate for home office, branch office and similar purposes; and (c) in the case of title insurers, abstract plant and equipment not to exceed fifty percent (50%) of the paid-in capital stock of such title insurer.

(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

Section 748. DISALLOWANCE OF "ASSETS" OR "CREDITS" RESULTING FROM "WASH" TRANSACTIONS. (1) The Commissioner shall disallow as an asset or as a credit against liabilities any reinsurance found by him after a hearing thereon to have been arranged for on a temporary basis for the purpose principally of deception as to the ceding insurer's financial condition as at the date of any financial statement of the insurer. Reinsurance of any substantial part of the insurer's outstanding risks contracted for in fact within ninety (90) days prior to the date of any such financial statement and cancelled in fact within ninety (90) days after the date of such statement shall prima facie be deemed to have been arranged for the purpose of deception within the intent of this provision.

(2) The Commissioner shall disallow as an asset any deposit, funds or other assets of the insurer found by him after a hearing thereon:

(a) Not to be in good faith the property of the insurer,

(b) Not freely subject to withdrawal or liquidation by the insurer at any time for the payment or discharge of claims or other obligations arising under its policies, and

(c) To be resulting from arrangements made principally for the purpose of deception as to the insurer's financial condition as at the date of any financial statement of the insurer.

(3) No such disallowance of assets or credits shall be valid unless made by the Commissioner after a hearing of which notice was given the insurer within six (6) months after the date the financial statement of the insurer as to which such deception is

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claimed was filed with the Commissioner.

(4) The Commissioner may suspend or revoke the certificate of authority of any insurer which has knowingly been a party to any such deception or attempt thereat.

Section 749. VALUATION OF BONDS AND OTHER DEBT OBLIGATIONS. (1) All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer shall, if amply secured and not in default as to principal or interest, be valued as follows:

(a) If purchased at par, at the par value.

(b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the Commissioner.

(c) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

(d) Unless otherwise provided by valuation established or approved by the Commissioner, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

(2) The Commissioner shall have full discretion in determining the method of calculating values according to the rules set forth in this section, but no such method or valuation shall be inconsistent with any applicable valuation or method currently accepted and in use among insurers in general.

Section 750. VALUATION OF OTHER SECURITIES. (1) Securities, other than those referred to in section 749, held by an insurer shall be valued, in the discretion of the Commissioner, at their market value, or at their appraised value, or at prices determined by him as representing their fair market value.

(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the Commissioner and in accordance with such method of valuation as he may approve.

(3) No valuation under this section shall be inconsistent with any applicable valuation or method currently accepted and in use among insurers in general.

Section 751. VALUATION OF PROPERTY. (1) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the Commissioner to be

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reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(2) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If valuation is based on an appraisal more than three (3) years old, the Commissioner may at his discretion call for and require a new appraisal in order to determine fair value.

(3) Personal property acquired pursuant to chattel mortgages shall not be valued at an amount greater than the unpaid balance of principal on the defaulted loan at the date of acquisition, together with taxes and expenses incurred in connection with such acquisition, or the fair value of such property, whichever amount is the lesser.

Section 752. VALUATION OF FUNERAL SUPPLIES, EQUIPMENT. Funeral supply inventories owned by the insurer shall be valued at an amount not exceeding cost to the insurer or market value, whichever is lower. Funeral equipment owned by the insurer shall be valued at an amount not in excess of cost to the insurer reduced by depreciation at the rate of not less than eighteen percent (18%) per annum from date of acquisition of such equipment.

Section 753. VALUATION OF PURCHASE MONEY MORTGAGES. Purchase money mortgages on real property shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby, or the unpaid balance of the debt secured by such mortgage, whichever is less.

CHAPTER 34

SEPARATE ACCOUNTS AND VARIABLE ANNUITIES

Section 754. DOMESTIC LIFE INSURER SEPARATE ACCOUNTS. A life insurer organized under the laws of this State may by or pursuant to resolution of its Board of Directors, establish one or more separate accounts, and may allocate thereto amounts to provide for annuities (and benefits incidental thereto), payable in fixed or variable amounts or both, subject to the following:

(a) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains or losses of the insurer.

(b) Except as hereinafter provided, amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this State governing the investments of life insurers; provided, that to the extent that the insurer's reserve liability with regard to (i) benefits guaranteed as to dollar amount and duration, and (ii) funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the Commissioner may otherwise approve, invested in accordance with the laws of this State governing the investments of life insurers. The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the insurer.

(c) With respect to 75% of the market value of the total assets in a separate account no insurer shall purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market, would exceed 10% of the market value of the assets of said separate account; provided, however, that the Commissioner may waive such limitation if, in his opinion, such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this State.

(d) Unless otherwise approved by the Commissioner, no insurer shall purchase or otherwise acquire for its separate accounts (i) any securities of any subsidiary of the insurer, or (ii) more than 10% of the total issued and outstanding voting securities of any other single issuer; provided, that the foregoing

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shall not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in such accounts.

(e) The limitations provided in subparagraphs (c) and (d) above shall not apply to the investment with respect to a separate account in the securities of an investment company registered under the Investment Company Act of 1940, provided that the investments of such investment company comply in substance with subparagraphs (c) and (d) hereof.

(f) Unless otherwise approved by the Commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that unless otherwise approved by the Commissioner, the portion of the assets of such separate account equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in clauses (i) and (ii) of Section 754 (b), if any, shall be valued in accordance with the rules otherwise applicable to the insurer's assets.

(g) Amounts allocated to a separate account in the exercise of the power granted by this Section shall be owned by the insurer, and the insurer shall not be, nor hold itself out to be, a trustee with respect to such amounts. That portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the insurer may conduct.

(h) To the extent such insurer deems it necessary to comply with any applicable federal or state laws, such insurer, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such insurer, to manage the business of such account.

(i) No sale, exchange or other transfer of assets may be made by an insurer between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a

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separate account, is made (a) by a transfer of cash, or (b) by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the Commissioner. The Commissioner may approve other transfers among such accounts if, in his opinion, such transfers would not be inequitable.

Section 755. STATEMENT OF PROCEDURES TO DETERMINE VARIABLE BENEFITS. (a) Any variable contract providing benefits payable in variable amounts delivered or issued for delivery in this State shall contain a statement of the essential features of the procedures to be followed by the insurer in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will vary to reflect investment experience and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

(b) Variable annuity contracts delivered or issued for delivery in this State may include as an incidental benefit provision for payment on death during the deferred period of an amount not in excess of the greater of the sum of the premiums or stipulated payments paid under the contract or the value of the contract at time of death. Any such provision shall not be deemed to be life insurance and therefore shall not be subject to the provisions of the Alabama Insurance Code governing life insurance contracts. A provision for any other benefit on death during the deferred period shall be subject to such insurance code provisions.

Section 756. INSURER LICENSED AND OTHER CONDITIONS. No insurer shall deliver or issue for delivery within this State variable contracts unless it is licensed to do a life insurance or annuity business in this State, and the Commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this State. In this connection, the Commissioner shall consider among other things:

- (a) The history and financial condition of the insurer;
- (b) The character, responsibility and fitness of the officers and directors of the insurer; and
- (c) The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

If the company is a subsidiary of an admitted life insurer, or affiliated with such insurer through common management or ownership, it may be deemed to have met the provisions of the section if either it or the parent or affiliated company meets the requirements hereof.

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Section 757. COMMISSIONER TO REGULATE ISSUANCE AND SALE. Notwithstanding any other provision of law, the Commissioner shall have sole authority to regulate the issuance and sale of variable contracts and the licensing of persons selling such contracts, and to issue reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this Chapter.

Section 758. RESERVE LIABILITIES ESTABLISHED. The reserve liability for variable annuities shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Section 759. OTHER PROVISIONS OF CODE. Except for Sections 754 through 758 of this Chapter and except as otherwise provided in this Chapter, all pertinent provisions of the Alabama Insurance Code shall apply to separate accounts and contracts relating thereto.

Sections 760-797 reserved.

CHAPTER 35

AUTOMOBILE CLUBS AND ASSOCIATIONS

Section 798. The term "AUTOMOBILE CLUB OR ASSOCIATION" as used in this Chapter is hereby defined to be a legal entity which, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to the ownership, operation, use or maintenance of a motor vehicle; provided however, that the definition of automobile clubs shall not include persons, or associations or corporations which are organized and operated solely for the purpose of conducting, sponsoring or sanctioning motor vehicle races, exhibitions or contests upon race tracks, or upon race courses established and marked as such for the duration of such particular event.

"Commissioner" shall mean the Commissioner of Insurance of the State of Alabama.

Section 799. No automobile club or association shall do, or offer to do, business in the state unless the same shall be organized as a domestic or foreign corporation and shall be licensed by the Commissioner.

Section 800. The Commissioner shall have full and complete authority to grant certificates of authorization to automobile clubs and associations; to revoke such certificates; and to prescribe such rules and regulations as are reasonably necessary for the conduct of the business of such clubs and associations within the state and for carrying out the objects and purposes of this Chapter. In determining if a certificate of authorization shall be issued, the Commissioner shall take into consideration, along with all other factors, the name of the automobile club or association and if such name, emblem or trademark is distinctive and not likely to mislead the public as to the nature or identity of the corporation using it, or interfere with the transactions of any other automobile club already doing business in the state, it shall be entitled to be approved.

The Commissioner shall also have the authority to conduct hearings as provided under the insurance laws of the state.

Section 801. All automobile clubs and associations now organized and/or operating in the State of Alabama and all automobile clubs and associations hereafter organized and/or operating in the State of Alabama shall be under the authority, supervision and control of the Commissioner.

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Section 802. Within thirty (30) days after the effective date of this Chapter, every automobile club or association organized and/or operating in the State of Alabama shall file with the Commissioner an application for a certificate of authority to continue said operations within the state, and every automobile club or association desiring to commence operations within the state shall, prior to the commencement of said operation, file application with and receive a certificate of authority from the Commissioner. No certificate of authority shall be issued until the automobile Club or association has paid to the Commissioner two hundred dollars (\$200.00) as an annual license fee which fee shall not be returnable. Licenses shall be issued for the period beginning January 1 of each year and shall expire on the following December 31. The Commissioner shall deposit all fees collected in the State Treasury to the credit of the General Fund.

The following documents and information shall be filed with the application of all such clubs and associations:

(a) The sum of twenty-five thousand dollars (\$25,000) in cash or securities as approved by the Commissioner and deposited in trust with the State Treasury, or in lieu thereof, a surety bond payable to the Commissioner in the amount of twenty-five thousand dollars (\$25,000) of a surety company authorized to do business in this state, conditioned upon the full compliance with this Chapter, and the faithful performance of the obligations of such club or association to its members.

The bonds shall be approved by the Commissioner and shall not be cancelled without thirty days' notice to the Commissioner. If such bond is filed, any person defrauded or injured by any wrongful act, misrepresentation or failure on the part of a motor club with respect to selling or rendering of any service may bring suit on such bond in his own name. Upon receipt of notice of the intended dissolution of such automobile club or association and upon receipt of notice of evidence satisfactory to the Commissioner that all obligations of the club or association to its members and creditors have been satisfied, the State Treasurer upon written authorization from the Commissioner shall refund said money or securities and the obligations of said bond shall terminate.

(b) Appointment of an agent for service of process who shall be a resident of the State of Alabama or, in lieu thereof, the Commissioner.

(c) A copy of the proposed form of membership application, membership certificate, by-laws, contracts for service, and any other material, including advertising matter, requested by the Commissioner.

If the Commissioner shall be satisfied that the applicant is competent and trustworthy and possesses the professional ability

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to perform the services and that he meets all the requirements of this Chapter he shall issue to the applicant a certificate of authority to conduct the business of such automobile club or association within this state.

Section 803. Before any agent or representative shall or may represent any automobile club or association in this state, he or she shall first apply to the Commissioner for a license and the Commissioner shall have full power and authority to issue such license upon proof satisfactory to him that such person is capable of soliciting automobile club or association memberships, and is of good moral character and recommended by the club or association in behalf of which such membership solicitations are to be made. Provided no such license shall be issued by the Commissioner until the applicant has paid to the Commissioner an annual license fee of ten dollars (\$10.00).

No employee or salesman of an automobile club shall directly or indirectly be licensed to solicit, negotiate, or hold himself out in any manner to be an insurance agent or solicitor, to effect insurance contracts unless it is in accordance with the provisions of the insurance laws.

The Commissioner may reject the application of any person who does not meet the requirements herein set out, and shall have the same powers with respect to the suspension, revocation, renewal and reinstatement of such licenses as are conferred with respect to insurance agents, other than life, by Section 151.

Section 804. It shall be unlawful for any person, firm, association, co-partnership, corporation, company or other organization to organize, operate, or in any way solicit members for an automobile club or association, or to offer any of the motor club services as defined in Section 798 except in the manner provided in this Chapter and under the rules and regulations promulgated by the Commissioner. Any person, firm, association, co-partnership, corporation, company or other organization violating the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine, not exceeding five hundred dollars (\$500.00) or be imprisoned not exceeding six (6) months or punished by both fine and imprisonment, in the discretion of the court.

Section 805. This Chapter shall be deemed and held exclusive authority for the organization and operation of automobile clubs and associations within this state, and such clubs and associations shall not be subject to any other laws respecting insurance companies of any class, kind or character except as to the conduct of hearings by the Commissioner and appeals therefrom; provided

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this Chapter shall not affect the validity of any membership certificate of any automobile club or association issued and outstanding prior to the enactment of this law. Notwithstanding the aforementioned nothing in this Chapter shall be construed as authority for a licensed automobile club or association to provide or furnish insurance coverage unless such clubs shall have complied with all the laws and regulations required of insurance companies authorized to do business in this state.

CHAPTER 36

TRANSITORY PROVISIONS

Section 806. EXISTING OFFICER. The individual lawfully holding the office of Superintendent of Insurance of Alabama immediately prior to the effective date of this code shall, after such effective date, automatically be continued in office as Commissioner of Insurance of Alabama for the unexpired portion of the term for which originally appointed as such Superintendent.

Section 807. EXISTING CERTIFICATES OF AUTHORITY. (1) The expiration date of every certificate of authority of an insurer which was in force immediately prior to the effective date of this code is hereby extended to midnight of the May 31 next following such effective date.

(2) Upon first renewal under this code any such certificate of authority shall be replaced by a certificate of authority in form as provided by this code, and shall thereafter be subject to continuation, suspension, revocation or termination as though originally issued under this code.

Section 808. EXISTING LICENSES. (1) Every license in force immediately prior to the effective date of this code and existing under any act herein repealed is valid until its original expiration date, unless earlier terminated in accordance with this code.

(2) The respective such licenses, upon first renewal made under this code, shall be replaced by a license in form as provided by this code, and shall thereafter be subject to continuation, renewal, suspension, revocation or termination as though originally issued under this code.

Section 809. EXISTING FORMS AND FILINGS. Every form of insurance document and every rate or other filing lawfully in use immediately prior to the effective date of this code may continue to be so used or be effective until the Commissioner otherwise prescribes pursuant to this code; except, that before expiration of one year from and after such effective date neither this code nor the Commissioner shall prohibit the use of any such document, rate, or filing because of any power, prohibition, or requirement contained in this code which did not exist under laws in force immediately prior to such effective date.

Section 810. SAVING CLAUSE. This Act shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this Act takes effect, but the same may be

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enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if this Act has not been passed.

Section 811. CONSTITUTIONALITY AND SEVERABILITY. If any section, clause, sentence, paragraph, part or provision of this Act shall be found to be invalid or ineffective by any Court it shall be conclusively presumed that this Act would have passed by the Legislature without such invalid section, clause, sentence, paragraph, part or provision, and this Act as a whole shall not be declared invalid by reason of the fact that one or more sections, clauses, sentences, paragraphs, parts or provisions may be so found invalid.

Section 812. EFFECTIVE DATE. This code and this Act shall become effective at 12:01 o'clock A. M. on January 1, 1972.

Section 813. REPEALER. (1) The following sections of Code of Alabama 1940, together with all amendments thereof or thereto are hereby repealed: Sections 169 through 177 inclusive of Title 10.

Section 313 of Title 14; Sections 1 through 11, inclusive, of Title 28; Sections 13 through 40, inclusive, of Title 28; Sections 48 through 140, inclusive, of Title 28; Sections 141 through 144, inclusive, of Title 28; Sections 163 through 176, inclusive, of Title 28; Sections 179 through 270, inclusive, of Title 28; Sections 272 through 281, inclusive, of Title 28; Sections 98 (1) through 114, inclusive, of Title 41; Section 455 of Title 51; Sections 812 through 819 (1), inclusive, of Title 51; and Sections 821 through 825, inclusive, of Title 51.

(2) The following Acts of Alabama, together with all amendments thereof or thereto are hereby repealed:

Act No. 415, H. 177, approved July 6, 1943 (General Acts of Alabama, Regular Session, 1943, page 381); Act No. 416, H. 178, approved July 6, 1943 (General Acts Alabama, Regular Session, 1943, page 381); Act No. 568, H. 176, approved July 7, 1943 (General Acts of Alabama, Regular Session, 1943, page 570); Act No. 118, H. 185, approved June 16, 1945 (General Acts of Alabama, Regular Session, 1945, page 111); Act No. 132, H. 186, approved June 16, 1945 (General Acts of Alabama, Regular Session, 1945, page 133); Act No. 133, H. 187, approved June 16, 1945 (General Acts of Alabama, Regular Session, 1945, page 145); Act No. 156, H. 189, approved June 23, 1945 (General Acts of Alabama, Regular Session, 1945, page 196); Act No. 301, H. 140, approved July 9, 1945 (General Acts of Alabama, Regular Session, 1945, page 497); Act No. 347, H. 136, approved August 15, 1947 (General Acts of Alabama, Regular Session of 1947, page 229); Act No. 528, H. 782, approved September 25, 1947 (General Acts

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of Alabama, Regular Session of 1947, page 386); Act No. 533, S. 322, approved October 13, 1947 (General Acts of Alabama, Regular Session of 1947, page 388); Act No. 168, H. 411, approved June 30, 1949 (Acts of Alabama, Regular Session, 1949, page 195); Act No. 680, H. 189, approved September 19, 1949 (Acts of Alabama, Regular Session, 1949, page 1050); Act No. 234, S. 25, approved July 16, 1951 (Acts of Alabama, Regular Session, 1951, Vol. 1, page 504); Act No. 768, S. 596, approved September 11, 1951 (Acts of Alabama, Regular Session, 1951, Vol. II, page 1335); Act No. 781, S. 33, approved September 11, 1951 (Acts of Alabama, Regular Session, 1951, Vol. II, page 1376); Act No. 193, S. 15, approved July 16, 1953 (Acts of Alabama, Regular Session, 1953, Vol. 1, page 247); Act No. 283, H. 348, approved August 5, 1953 (Acts of Alabama, Regular Session, 1953, Vol. 1, page 350); Act No. 539, H. 368, approved September 9, 1953 (Acts of Alabama, Regular Session, 1953, Vol. II, page 755); Act No. 643, H. 320, approved September 16, 1953 (Acts of Alabama, Regular Session, 1953, Vol. II, page 901); Act No. 646, S. 340, approved September 16, 1953 (Acts of Alabama, Regular Session, 1953, Vol. II, page 904); Act No. 727, H. 194, approved September 17, 1953, (Acts of Alabama, Regular Session, 1953, Vol. II, page 981); Act No. 776, H. 86, approved September 19, 1953, (Acts of Alabama, Regular Session, 1953, Vol. II, page 1047); Act No. 785, H. 512, approved September 19, 1953 (Acts of Alabama, Regular Session, 1953, Vol. II, page 1073); Act No. 77, H. 71, approved April 13, 1955 (Acts of Alabama, Second Special Session, 1955, page 193); Act No. 530, H. 629, approved September 13, 1957 (Acts of Alabama, Regular Session, 1957, Vol. II, page 726); Act No. 597, H. 497, approved September 18, 1957 (Acts of Alabama, Regular Session, 1957, Vol. II, page 834); Act No. 598, H. 871, approved September 18, 1957 (Acts of Alabama, Regular Session, 1957, Vol. II, page 848); and Act No. 608, H. 377, approved September 18, 1957 (Acts of Alabama, Regular Session, 1957, Vol. II, page 865); Act No. 73, S. 13, approved August 13, 1959, (Acts of Alabama, Second Extraordinary Session, 1959, Vol. I, page 250); Act No. 521, H. 826, approved September 16, 1963, (Acts of Alabama, Regular Session, 1963, Vol. II, page 1112); Act No. 571, H. 108, approved August 26, 1965, (Acts of Alabama, Regular Session, 1965, Vol. II, page 1056); Act No. 274, H. 112, approved August 10, 1965 (Acts of Alabama, Regular Session, 1965, Vol. I, page 386); Act No. 284, H. 231, approved August 10, 1965 (Acts of Alabama, Regular Session, 1965, Vol. I, page 398); Act No. 241, H. 342, approved August 31, 1966 (Acts of Alabama, Special Session 1966, page 363); Act No. 96, H. 15, approved July 31, 1967 (Acts of Alabama Regular Session, 1967, Vol. I, Page 434); Act No. 97, H. 16, Approved July 31, 1967 (Acts of Alabama, Regular Session,

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1967 Vol. I, Page 436); Act No. 98, H. 18, Approved July 31, 1967 (Acts of Alabama, Regular Session, 1967, Vol. I, Page 437); Act No. 99, H. 19, Approved July 31, 1967, Vol. I, Page 437); Act No. 181, H. 20, (Acts of Alabama, Regular Session, 1967, Vol. I, Page 543); Act No. 28, H. 97, Approved May 14, 1969 (Acts of Alabama, Special Session, 1969, Vol. I, page 74).

(3) All other laws and parts of laws, general, special, private or local, in conflict with or inconsistent with the provisions of this Act are hereby repealed.

Approved August 25, 1971.

Time: 12:05 P.M.

Act No. 408 H. 815—Mims, Agee, Benton, Wise, May,
Kinsey, Barkett, Connell

AN ACT

TO AMEND THE PROVISIONS OF TITLE 22, SECTIONS 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, AND 231, CODE OF ALABAMA, 1940, AS AMENDED, TO CHANGE THE NAME OF THE STATE AGENCY CREATED BY THE LEGISLATURE; TO STABILIZE AND REGULATE THE MILK INDUSTRY IN ALABAMA; TO CHANGE THE COMPOSITION OF THE ALABAMA DAIRY COMMISSION TO BE A COMMISSION MADE UP OF FIVE VOTING MEMBERS, FOUR OF WHOM TO BE PERSONS WITH NO DIRECT OR INDIRECT INTEREST IN THE MILK BUSINESS AND THE COMMISSIONER OF AGRICULTURE AND INDUSTRIES; TO INVEST THE DAIRY COMMISSION WITH POWER TO EMPLOY SERVICES OF ECONOMISTS, ACCOUNTANTS, AND OTHER EXPERTS TO ASSIST THE COMMISSION IN CARRYING OUT ITS FUNCTIONS; TO INVEST THE COMMISSION WITH THE POWER TO REQUIRE DISTRIBUTORS, PRODUCER-DISTRIBUTORS, DEALERS, PROCESSORS, OR HANDLERS TO POST SUFFICIENT BOND TO PROTECT PRODUCERS AND PRODUCER PAYROLLS FROM INSOLVENCY OF DISTRIBUTORS, PRODUCER-DISTRIBUTORS, DEALERS, PROCESSORS, OR HANDLERS, OR DEFAULT BY SAID DISTRIBUTORS, PRODUCER-DISTRIBUTORS, DEALERS, PROCESSORS, OR HANDLERS IN MAKING PAYMENT FOR MILK RECEIVED; TO REQUIRE DISTRIBUTORS, PRODUCER-DISTRIBUTORS, DEALERS, PROCESSORS, AND HANDLERS TO MAKE A FULL AND COMPLETE ACCOUNTING TO PRODUCERS, OF ALL MILK RECEIVED, FROM ALL SOURCES, INCLUDING A COMPLETE FAT AND SKIM ACCOUNTING; TO REQUIRE THE COMMISSION TO CONDUCT COST STUDIES AND PREPARE FINDINGS OF FACT BEFORE FIXING THE PRICES FOR HAULING, TRANSPORTING, BOTTLING, PACKAGING, DISTRIBUTING, PROCESSING, AND MARKETING MILK; TO INVEST THE COMMISSION WITH THE POWER TO FIX BY ECONOMIC FORMULA PRICES TO BE PAID PRODUCERS AND PRODUCER ASSOCIATIONS FOR MILK SOLD IN THE STATE OF ALABAMA.

Be It Enacted by the Legislature of Alabama:

SECTION 1. Section 206 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

“§206. Definitions.—As used in this chapter, unless otherwise expressly stated or unless the context or subject matter otherwise requires:

‘Alabama Dairy Commission’ means a state agency created by this chapter to no longer be known as Alabama State Milk Control Board but henceforth to be known and designated as the ‘Alabama Dairy Commission’, which said dairy commission shall have all the powers and duties hereinafter set out.

‘Person’ means any person, firm or corporation, association or partnership.

‘Milk Dealer’ means any person who purchases, buys, sells, handles or produces milk in any way except for consumption where said milk is not to be resold or otherwise distributed. Each person, corporation, partnership or association, which, if a natural person, shall be a milk dealer within the meaning of this chapter, and any subsidiary or affiliate of such corporation similarly engaged shall be a milk dealer within the meaning of this definition. A hotel, lunchstand or restaurant which sells milk intended for consumption only upon the premises where sold; or a wholesale producer who sells his entire production to distributors; or any firm, corporation, association, or partnership, owned and controlled substantially by wholesale producers who sell the entire production to distributors or processors; or any firm, corporation, or association which wholesale producers substantially own or control or which acts as agent or representative of wholesale producers in marketing their milk; or which buys milk from another producer, producer-distributor, or distributor for the purpose of transporting such milk or for the purpose of selling, jobbing, processing or distributing such milk at wholesale or retail; or a person who buys milk for processing purposes only and who does not sell or distribute any milk for fluid milk consumption shall not be deemed a milk dealer.

‘Distributor’ means a person who purchases, accepts, or receives milk for the purpose of putting such milk in bottles or other unit containers in which same is designed to be sold or for the purpose of cooling, pasteurizing, standardizing or otherwise processing such milk for fluid milk consumption or who buys milk from another producer, producer-distributor or distributor for the purpose of selling, jobbing or distributing such milk at wholesale or retail for any one or more such purposes. Said term includes an association in which producers hold member-

ship or an association which hold written authority from producers to act as agent or representative in purchasing or marketing milk and which processes and distributes said producer milk at wholesale or retail. Said term, however, excludes all persons hereinafter defined as producer-distributors.

'Producer' means a person who produces milk, any part or all of which is sold to another by whatever means or device, for use, resale, or for fluid milk consumption. Said term includes an association in which producers hold membership or an association which holds written authority from producers to act as agent or representative in purchasing or marketing producer milk, but which does not process or distribute said producer milk at wholesale or retail.

'Milk shed' means any geographical area designated as a unit by the dairy commission for regulatory purposes.

'Processor' means a person who buys milk only for the purpose or purposes of processing such milk into by-products of milk, but does not sell or distribute any of such milk for fluid milk consumption. Any person who buys milk, a part of which is processed into by-products and a part of which is sold or distributed for fluid milk consumption shall not be deemed a processor.

'Milk' means the lacteal secretion of a dairy animal or animals, which includes such secretions when cooled, pasteurized, standardized or otherwise processed for the purpose of sale as milk, cream, buttermilk, skimmed milk, and flavored milk drinks.

'Fluid milk' means milk as defined above, including cream, buttermilk, skimmed milk and flavored milk drinks when sold or offered for sale by whatever device, means or method as fluid milk, but excludes milk sold in condensed or powdered form or concentrated milk contained in hermetically sealed cans.

'Consumer' means any person who purchases milk solely for personal use or for the use of his household.

'Store' means any establishment where milk is sold directly to the consumer other than for consumption upon the premises where sold.

'Producer-distributor' means a producer who distributes milk by whatever device, means or method which he produces to milk dealers, stores, hotels, cafes, hospitals, restaurant, wholesale dealers, other producer-distributors, consumers, or consumers' agents.

'Wholesale producer' means a producer who sells milk, which he produces, in bulk to distributors for resale as fluid

milk. Said term includes an association in which producers hold membership or an association which holds written authority from producers to act as agent or representative in purchasing or marketing producer milk, but which does not process or distribute said producer milk at wholesale or retail.

'Licensee' means any person who holds a license from the dairy commission, whether such person be a producer, producer-distributor, distributor, bob-tailer, cooling station, wholesale producer, store, milk dealer, or hauler.

'Bob-tailer' means a person, as herein defined, who purchases processed and packaged milk and controlled milk products from a distributor or producer-distributor, and resells such milk or controlled milk products in the same container in which they are purchased to either wholesale or retail outlets, or to both wholesale and retail outlets in a controlled area. No person shall be deemed to be or licensed as a bob-tailer, if he, in fact, performs no legitimate sales function in the milk marketing field, nor if his sales are confined to or principally composed of sales to one organization or a group of related organizations, and his relationship with them operates to nullify the wholesale pricing provisions of the Dairy Commission Act.

'Cooling station' means a raw milk assembly point which, as principal or agent for another person, receives direct from producers, raw unprocessed milk and stores, cools, or holds such milk for shipment or sale to other facilities, either controlled or uncontrolled, within or without the jurisdiction of the Alabama Dairy Commission. A person, firm or corporation which in any manner processes milk or packages it in any type container except a container of the type customarily used for bulk shipment of milk, or any firm, corporation, association or partnership owned and controlled entirely by wholesale producers who sell the entire production to distributors or processors, shall not be deemed a 'cooling station' within the meaning of this chapter. Nothing in the foregoing definitions shall prevent a licensed cooling station from performing the routine functions of weighing, testing, sampling, and grading all milk so handled.

'Cooperative marketing association' as used in this chapter means a person who purchases, accepts or receives milk for the purpose of putting such milk in bottles or other unit containers in which same is designed to be sold, or for the purpose of cooling, pasteurizing, standardizing, or otherwise processing such milk for fluid milk consumption; or who buys or acquires milk from another producer, producer-distributor or distributor for the purpose of selling, jobbing or distributing such milk at wholesale or retail for any one or more such purposes.

'Hauler' means any person who hauls or transports unprocessed milk in bulk.

For the purpose of this chapter, the Alabama Dairy Commission shall determine what products, persons, firms or corporations fall into the categories of the foregoing definitions, subject only to review as provided in Section 226 of this chapter."

SECTION 2. Section 207 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§207. Alabama Dairy Commission.—There shall be an Alabama Dairy Commission, to be known as 'The Alabama Dairy Commission', to consist of five (5) members. The members shall hold office until their successors are appointed and qualified and shall have the powers and perform the duties provided for in this chapter. The compensation of the members of the commission shall be the maximum allowed for any State agency but no less than fifty dollars (\$50.00) per day for each day actually engaged in official functions of the Alabama Dairy Commission, not to exceed sixty (60) days per annum, plus subsistence and necessary travel expenses at the rate allowed other State employees.

The members of the Alabama Dairy Commission, other than the Commissioner of Agriculture and Industries, shall be appointed by the Governor of Alabama and shall be persons who are not engaged directly or indirectly, in the milk business. No two (2) members of the Alabama Dairy Commission, other than the Commissioner of Agriculture and Industries, shall reside in the same Congressional District of Alabama. All such members shall serve during good behavior and shall not be subject to removal from office or involuntary retirement from office during the duration of the term of office, unless the Governor shall determine that any member of the commission shall have become incapacitated, by reason of physical or mental disability or illness, to the extent that he cannot efficiently perform the duties of his office. Any and all vacancies, whether arising from expiration of term, voluntary or involuntary retirement or death, shall be filled in the same manner as provided for each original respective appointment. The Commissioner of agriculture and Industries shall be an ex officio member of the commission; he may designate any member of the Department of Agriculture and Industries to represent him at its meeting. During the month of February, 1972, one member shall be appointed and shall hold office for one (1) year beginning February, 1972. During February, 1972, one member shall be appointed and shall hold office for two (2) years beginning February, 1972. During February, 1972, one member shall be appointed and shall hold office for three (3) years beginning

February, 1972. During February, 1972, one member shall be appointed and shall hold office for four (4) years beginning February, 1972. Thereafter, all appointments, except appointments to fill unexpired terms of office, shall be for four (4) years. The present Alabama State Milk Control Board shall continue to function and serve until such time as the four (4) new members of the Alabama Dairy Commission are appointed under the provisions of this Section."

SECTION 3. Section 208 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§208. Same; employees and legal representatives.—The dairy commission may employ such employees and assistants and legal representatives and counsel as it may deem necessary to carry out the provisions of this chapter and may authorize and affix their respective salaries, wages, or compensation and such employees shall be paid subsistence and necessary traveling expenses at the rate allowed other state employees. All such employees and assistants and legal representatives and counsel shall serve at the will of the dairy commission and may be removed by it at any time but all expenditures made under the authority of this chapter shall and must be paid from receipts hereinafter provided for. The dairy commission shall have the authority to call upon the attorney general of the state of Alabama for any legal opinion, the same as other state agencies, and there shall be one or more assistants attorney general assigned to the dairy commission to lend such legal assistance to the commission as may be required. It shall be the duty of any solicitor of the state of Alabama when requested by the dairy commission to investigate, institute and prosecute any violation of the Alabama Dairy Commission law or any lawful order, rule or regulation of the dairy commission. However, the dairy commission may have its own attorney or legal counsel to institute for it and in its name any civil action which the dairy commission may deem it necessary or advisable to institute to enforce any provisions of this chapter or any lawful order, rule, or regulation of the dairy commission. The dairy commission shall have the authority to designate its own attorney to assist the solicitor as special prosecutor in any criminal prosecution brought for any violation of this chapter or any lawful order, rule or regulation of the dairy commission or to defend the dairy commission in any action wherein its interests are involved.

The commission shall be required to enlist or employ outside sources for advice and information such as, but not limited to, agricultural economists, accounting firms or consulting firms, who shall be experienced and expert in the appropriate areas of milk production, processing and marketing.

The commission shall be required to retain or employ management consultants or consulting firms to advise the commission on the staffing needs, deficiencies, or improvements.

All regular employees of the commission except for attorneys and the Executive Secretary shall be subject to the State Merit System, provided, however, the commission shall have the power to retain, employ, or enlist other employees for special, professional, or technical purposes outside the provisions of the State Merit System."

SECTION 4. Section 209 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§209. Declaration of marketing areas.—As soon as possible after its creation, the commission shall designate natural marketing areas which shall constitute the respective milk sheds of the state of Alabama, but the commission shall have the power at any time to designate new or additional milk sheds or change the area of any designated milk shed or combine any two or more designated milk sheds when it may deem such action necessary or advisable to carry out the provisions of this chapter. At any time after the commission shall have designated a marketing area as a milk shed, a majority of the producers, producer-distributors and distributors, all groups counted as one group, selling or marketing milk in such milk shed, who operate under a permit from the state board of health or any county board of health of the state of Alabama, may petition the commission by written petition signed by a majority of such producers, producer-distributors and distributors, all counted as one group, for the benefits and provisions of this chapter. No objection shall be made as to the form of the petition. Immediately upon such petition being filed with the commission, all the provisions of this chapter shall apply in such milk shed. Provided that any change in the area of any designated milk shed may be made by the commission upon a majority of all the producers, producer-distributors and distributors, selling or marketing milk in such milk shed, all groups counted as one group, petitioning the commission by written petition signed by a majority of producers, producer-distributors, and distributors, all counted as one group, favoring such change of milk shed areas. No objection shall be made as to form of the petition. Provided further, that the dairy commission, upon petition signed by a majority of all the producers, producer-distributors, and distributors, duly licensed by the commission, selling or marketing milk marketed and sold in any designated milk shed, all such groups counted as one group, shall have the power to discontinue the benefits and provisions of this chapter in any designated milk shed, and to release the producers, producer-distributors and distributors, and others engaged in the milk in-

dustry in such milk sheds so discontinued from the provisions of this chapter, when, in the opinion of the dairy commission, the provisions and regulations of this chapter are unnecessary to maintain an adequate supply of pure and wholesome milk to the consuming public of such milk shed, or to prevent demoralizing and destructive trade practices or conditions which threaten to impair or destroy an adequate supply of pure and wholesome milk to the citizens consuming milk in such milk shed. But no provisions of this chapter shall apply in any part of the state of Alabama unless and until applied for by such producers, producer-distributors, and distributors as herein provided for."

SECTION 5. Section 210 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§210. General powers of the dairy commission.—The dairy commission is hereby vested with the powers, and it shall be its duty to supervise and regulate the fluid milk industry of the state of Alabama, including the production, production-distribution, transportation, manufacturing, storage, distribution, delivery, processing, and sale of milk in the state of Alabama, and to investigate and ascertain the use to which the distributor or processor makes of all fluid milk purchased and to require the distributor or processor to pay for the said milk at the proper price, and to enforce all provisions of this chapter, providing, however, that nothing contained in this chapter shall be construed to abrogate or affect the status, force or operation of any provision of public health laws or county board of health regulations, or municipal ordinances. The dairy commission shall have the power to cooperate with the state board of health or any county board of health or department of agriculture and industries in enforcing the provisions of this chapter, and to investigate all matters pertaining to the production, manufacture, production-distribution, processing, storage, transportation and sale of milk and milk products in the state of Alabama. The dairy commission shall have the power to subpoena milk dealers and producers, their records, books and accounts and any other person from whom information may be desired or deemed necessary to carry out the purposes and intent of this chapter, and may also issue commissions to take depositions of witnesses who are sick or absent from the state. It shall be the duty of any sheriff of any county of the state of Alabama, when requested to do so, by the dairy commission or any duly authorized agent or employee of said commission to execute any summons, citation or notice which the dairy commission may cause to be issued, for which such sheriff shall be authorized to charge the same fee against the funds provided for the dairy commission as he might charge for the service of such a document if issued from the circuit courts of the state

of Alabama. Any person other than licensee who holds a license under the dairy commission who is cited to show cause why his license should not be revoked, shall receive for his attendance before the dairy commission or its duly designated employee the same compensation as provided for a witness subpoenaed to appear before the circuit court, which shall be charged against the funds provided for the operation of the dairy commission. Any duly designated employee of the dairy commission may administer oath to witnesses and may conduct hearings or investigations and any such duly designated employee of the dairy commission may sign and issue subpoenas requiring witnesses to appear before him or the dairy commission, and in addition to the manner provided above for the execution of subpoenas, summons and citations issued by the dairy commission to witnesses or licensees, the dairy commission, through its designated officers shall have the power to serve said subpoenas, summons or citations upon any such person by sending a copy of such summons, subpoena or citation through the United States mail, postage prepaid, which said mail shall be registered with return receipt attached and such service shall be complete when said registered mail shall be delivered to said person and such receipt returned to the dairy commission or its designated employee, signed by the person sought to be summoned, subpoenaed or cited. Obedience to a subpoena, summons or citation issued by the dairy commission or any person authorized and designated by the dairy commission to issue said subpoena may be enforced by application to any judge of the circuit court of the county in which said subpoena was issued or to the judge of any circuit court of the county in which such person subpoenaed or cited resides in the same manner as is provided by law for the grand jury of a county to enforce its subpoenas or summons and with the same penalty as provided therefor for the failure of any person failing or refusing to comply with such summons or subpoena. It shall be the duty of the dairy commission, upon application of any person holding a license under the dairy commission to act as mediator and arbitrator in any controversy or issue that may arise among or between a licensee and another licensee as between themselves or that may arise between them as groups when said controversy or issue pertains to fluid milk, and the findings and decisions of the dairy commission in all such matters shall be conclusively binding on all such licensees therein and subject only to review by appeal as hereinafter provided for in this chapter. The commission may deliberate in private or executive session on any matter brought before it but the minutes and records of all sessions, including private or executive sessions, shall be public records and shall be available for reasonable inspection or examination by any member of the public at reasonable times. The operation and affect of any

provision of this chapter, conferring a general power upon the dairy commission, shall not impair or limit any specific power or powers granted to the dairy commission by this chapter."

SECTION 6. Section 211 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§211. Rules and orders.—The commission may adopt and enforce all rules and all orders necessary to carry out the provisions of this chapter. Every rule or order shall be posted for public inspection in the main office of the dairy commission for thirty days, and a copy filed in the office of the commission, excepting an order directed only to a person or persons named therein, which shall be served by personal delivery of a copy, or by mailing a copy in a sealed envelope with postage prepaid, properly addressed to each person to whom such order is directed, or, in the case of a corporation, to any officer or agent of the corporation upon which a summons may be served in accordance with the provisions of the statutes of Alabama. The posting in the main office of the dairy commission of any rules and of any order not required to be served and such filing in the office of the commission shall constitute due and sufficient notice to all persons affected by such rule or order. A rule when duly posted and filed, as provided in this chapter, shall have the force and effect of law. After February 1, 1972, all rules and orders of the commission shall contain a written finding of facts."

SECTION 7. Section 212 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§212. Entry, inspection and investigation.—The commission or any person designated for that purpose by the commission, shall have access to, and may enter, at all reasonable hours, all places where milk is produced, stored, bottled, processed, or manufactured, or where milk or milk products are being produced, bought, sold or handled, or where the books, papers, records or documents relative to such transactions are kept and shall have the power to inspect and copy the same in any place within the state, and may administer oath and take testimony for the purpose of ascertaining facts, which in the judgment of the commission, are necessary to administer this chapter, but any such information so derived shall be treated as confidential by the commission, and shall be used by it only for the administration of this chapter and not for the general public issue. Any member or employee of the commission and any person assisting the commission in the administration of this chapter, who shall divulge any information secured while in the employ of the

commission, in respect to the transaction, property, files, records or papers of the commission, or in respect to the business, finances or mechanical, chemical or other industrial processes of any person, to any person other than members of the commission or the superior of any such employee of the commission, except when called upon to testify in any action or proceeding in any court, wherein the commission is a party, shall be fined not less than one hundred dollars nor more than one thousand dollars."

SECTION 8. Section 213 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§213. Licenses to producers, producer-distributors, stores, milk dealers, distributors, bob-tailers, cooling stations, and haulers.—In any milk shed where the provisions of this chapter once apply, it shall be unlawful for any producer, producer-distributor, store, milk dealer, distributor, bob-tailer, cooling station, or hauler to produce, sell, buy, handle, distribute or haul or transport milk unless such person be duly licensed as provided by this chapter. It shall be unlawful for any such person to buy, sell, handle, distribute or haul or transport milk which he knows or has reason to believe has been previously dealt with or handled in violation of any provision of this chapter, provided, however, any producer in any milk shed where the provisions of this chapter apply may file a written declaration under oath in the office of the dairy commission setting forth that he does not desire a license as a producer or as a producer-distributor, that he desires to sell milk on the premises where produced, to persons furnishing their own containers, for consumption as fluid milk by the purchaser to whom the same is delivered in person, or by the immediate household of such purchaser, at prices not conforming to those fixed by the dairy commission, all milk so sold to be produced and handled in conformity with the health laws and regulations pertaining to milk in force in the locality wherein such premises are located. Thereafter it shall be lawful for such producer without a license as a producer or a producer-distributor to sell milk on the premises where produced to persons furnishing their own containers for consumption as fluid milk by the purchaser to whom such milk is delivered, or by the immediate household of such purchaser, at prices not conforming to those fixed by the commission, all milk so sold having been produced and handled in conformity with the health laws and regulations pertaining to milk in force in the locality wherein such premises are located; and until such declaration be withdrawn in the manner hereinafter provided, such producer shall not be eligible to apply for or to receive a license as a producer or producer-distributor. None of the dairy

animals, facilities or equipment used in connection with the production of milk by a producer who has made and filed a declaration as herein provided, may be used by any licensed producer or producer-distributor while such declaration remains in force. Subject to the foregoing exceptions as to licenses and price fixing, all the provisions of the dairy commission act shall apply to producers who have made and filed declarations as herein provided as fully and to the same extent as though such producers were duly licensed by the dairy commission. Any producer who has made and filed such a declaration as herein provided for may cancel and withdraw the same at any time by written declaration to that effect under oath filed in the office of the dairy commission. The dairy commission shall prepare and make available to all persons desiring to sell milk under the provisions of this section forms for the written declaration under oath herein required."

SECTION 9. Section 214 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§214. Application for license; duration.—An applicant for license to operate as milk dealer, producer, producer-distributor, store, distributor, bob-tailer, cooling station, or hauler shall file an application upon a blank prepared under authority of the commission. An applicant shall state such facts concerning his circumstances and the nature of the business to be conducted as in the opinion of the commission are necessary for the administration of this chapter. Such application shall be accompanied by the license fee required to be paid. The commission may classify licenses and may issue licenses to milk dealers to carry on a certain designated kind of business only, or the same may be limited to a particular city or village or to a particular market or markets in the state, and may specify the place or places where milk may be received from producers by and with the consent of a majority of such producers. Each application for a license shall be in writing, under oath, and in all cases where a health permit is required of an applicant to carry on his particular kind of business by the state or county board of health, a certificate from such state or county board of health in the milk shed where he desires to do business that he is complying with the health regulations of such milk shed, must accompany the application. Where there are no health regulations in force in said milk shed by the county board of health, or where it does not apply, no certificate shall be necessary. Application shall be duly made within thirty days after this chapter takes effect in any milk shed by all milk dealers and producers then engaged in business in such milk shed. The license year shall begin October first, and shall expire September thirtieth. However,

after a license has been issued by the dairy commission no certificate or other evidence of annual renewal thereof need be issued by the commission; and such license shall continue in force from year to year subject to revocation by the commission upon failure of the licensee to pay when due any license fee or fees prescribed by law or failure to comply with the dairy commission laws or the rules and regulations of the commission. In newly created milk sheds or in milk sheds where the territory has been extended, the license year shall commence as hereinabove stated and persons newly affected thereby who are required to have license shall pay the same license fee required of persons engaged in the same type of activities. All persons commencing new businesses who were not in business at the beginning of the license year shall pay the same license fee in the same amount and in the same manner as provided for new or extended milk sheds."

SECTION 10. Section 215 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§215. License fees.—Any person required by this chapter to be licensed by the dairy commission shall pay to the dairy commission at the times and in the manner hereinafter prescribed such of the license fees as are applicable to the business or businesses in which he is engaged:

A person operating a store or stores shall obtain a license for each store he operates and shall pay a license fee for each year or part of a year in which he operates such store or stores of four dollars and a half (\$4.50) for each store operated.

A bob-tailer shall pay a license fee of two cents (\$.02) for each one hundred pounds of milk and controlled milk products which he sells for human consumption in those areas controlled by the commission except where such payment is ordered discontinued as hereinafter provided.

A person operating a cooling station shall pay an annual license fee of twenty-five dollars (\$25).

A distributor shall pay a license fee of two cents (\$.02) for each one hundred pounds of milk and controlled milk products processed and sold for human consumption in those areas controlled by the commission except when such payment is ordered discontinued as hereinafter provided. A distributor may reduce the number of pounds of milk on which he would otherwise pay a license fee as provided above, by the number of pounds of milk on which a license fee has been paid by a bob-tailer as provided herein. It is the intent of this provision to assure that in no

event shall more than two cents (\$.02) per hundred pounds of milk be ultimately collected as a license fee at the distribution level.

A producer shall pay a license fee of two cents (\$.02) for each one hundred pounds of milk produced for sale in this state where the prices governing such sale are established by the commission and the sales are made to licensed distributors, producer-distributors, cooling stations, or cooperative marketing associations in areas controlled by the commission; and such fee shall be paid by the producer to the distributor at the time of the sale, unless such payment is ordered discontinued as herein-after provided. However, any person, firm or corporation who owns two cows or less shall be exempt from the payment of a license fee as a producer. Associations in which producers hold membership and which association holds written authority from producers to act as agent or representative in purchasing or marketing producer milk and cooperative corporations shall be exempt from the payment of a license fee as a producer, provided, however,, that all of the member producers of or shipping to the association or cooperative corporation have themselves paid the license fee herein set for producers.

A hauler shall pay a license fee of five dollars (\$5.00) annually.

A producer-distributor, as defined by this chapter, shall pay a license fee both as a producer and as a distributor, it being the intent and purpose of this chapter that a producer-distributor be licensed separately both as a producer and as a distributor. Each producer-distributor shall pay a license fee as a producer in an amount equal to two cents (\$.02) for each one hundred pounds of milk produced for sale in this state during each license year, and he shall also pay as a distributor a license fee, the same as a distributor as provided above.

On or before the twentieth day of each month every licensed distributor and producer-distributor shall remit to the commission the total amount of fees due by him as distributor fees, as producer fees and any bob-tailer fees for the preceding month. However, in remitting these fees he may deduct from the amount of the producer fees and any bob-tailer two per cent (2%) of the total of such producer fees and bob-tailer fees as compensation to him for services rendered in collecting and remitting such producer and bob-tailer fees. Any distributor or producer-distributor who fails to remit to the commission license fees within the time hereinabove prescribed shall pay as a penalty an amount equal to ten per cent (10%) of the delinquent fees in addition to such delinquent fees.

A licensed cooperative marketing association that processes and distributes milk shall pay the same license fee as and in the same manner as a distributor and shall collect from licensed producers from which he acquires milk, whether they are members of such association or not, in the same amount and manner prescribed above for distributors to collect from and remit to the commission the license fees of its licensed producers. Such association shall likewise collect and remit any fees due by any bob-tailer, the same as is provided for a distributor.

Whenever the total amount collected in a fiscal year from the license fees hereinabove provided equals the budgetary requirements of the dairy commission for that fiscal year, plus the sum of fifty thousand dollars (\$50,000), the two-cents per hundred-weight license fee levied on licensed producers, producer-distributors, distributors, bob-tailers and cooperative associations shall be abated for the remainder of that fiscal year; and the dairy commission shall notify all persons collecting license fees to stop collecting such license fees from producers and any bob-tailers and to stop remitting such license fees to the commission ten days prior to the first day of any calendar month to be effective on the first of such month. All producers and bob-tailers will likewise be notified of the cut-off date.

All money received by the dairy commission from license fees in excess of the actual expenditures for the fiscal year in which such money is received plus a reserve of fifty thousand dollars (\$50,000) shall be carried over to the next fiscal year and may be used by the dairy commission in that fiscal year for the same purposes and in the same manner that funds derived from license fees for the current fiscal year may be used.

This chapter shall not apply to a person who produces milk for his own use or for the use of his own household and who does not sell any milk produced by him, provided further that the exemption from the payment of a license herein provided for of a person owning two cows or less shall not exempt said person from complying with the provisions of this chapter or the orders of the dairy commission, regulating the price of milk in a milk shed where said person sells any of the milk produced by him from such cows. A distributor, producer-distributor or bob-tailer paying a license under this section shall be exempt from payment of transient dealers license levied under section 609 of Title 51, and transient vendors and peddlers license levied under section 611 of Title 51."

SECTION 11. Section 216 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

“§216. Reports and bonds of milk dealers.—The dairy commission shall have the power to require all persons holding licenses under it to file with the dairy commission such reports at such reasonable or regular time as the dairy commission may require, showing such person's production, sale or distribution of milk, and any information deemed by the dairy commission necessary which pertains to the production, use, sale or distribution of such milk, either under oath or otherwise, as the dairy commission may direct, and failure or refusal to file such reports when directed to do so by the dairy commission or its duly designated employees shall constitute grounds for the revocation of such person's license and shall constitute a violation for which such person may be fined as hereinafter provided, one or both, at the discretion of the dairy commission.”

SECTION 12. Title 22, Code of Alabama, 1940, as amended, is amended by adding thereto Section 216 (1) through (11), inclusive, which shall read as follows:

“§216(1). Distributor, producer-distributor, dealer, processor or handler required to file bonds.—It shall be unlawful for a distributor, producer-distributor, dealer, processor or handler to purchase, acquire or receive on consignment or otherwise milk from producers unless the distributor, producer-distributor, dealer, processor or handler shall file with the commission a corporate surety, individual surety, or collateral bond, approved by the commission. For the purpose of this section, the words distributor, producer-distributor or processor shall include all distributors, producer-distributors or processors operated by the same parent distributor, producer-distributor or processor as one distributor, producer-distributor or processor whether they be incorporated or be divisions of the said parent distributor, producer-distributor or processor; further one bond shall be filed by the parent distributor, producer-distributor or processor which said bond shall cover all distributors, producer-distributors or processors operated by the parent distributor, producer-distributor or processor. Except as otherwise herein provided, the bond shall be in a sum equal to the value of the highest aggregate amount of milk purchased, acquired or received by the distributor, producer-distributor, dealer, processor or handler from producers in any one month during the preceding calendar year, which value shall be computed according to lawful prices, and shall not in any event exceed one hundred thousand dollars (\$100,000.00). The bond shall be upon a form prescribed by the commission, conditioned for the payment by the distributor, producer-distributor, dealer, processor or handler of all amounts due, including amounts due under this Act and the orders of the commission, for milk purchased or otherwise acquired from producers by the distributor, producer-distributor, dealer, processor or handler during the

license year, upon such terms and conditions as the commission may prescribe.

(2) Computation of amount of certain bonds.—Milk purchased, acquired or received by a distributor, producer-distributor, dealer, processor or handler from producers outside the state of Alabama and sold or distributed by such distributors, producer-distributors, dealers, processors or handlers as fluid milk within the state of Alabama, shall be included in computing the amount of such distributor's, producer-distributor's, dealer's, processor's or handler's bond. In such computation, the amount due for such milk shall be determined according to any applicable official prices or any lawful contract price.

(3) Time of filing; effective period of bond.—The bond herein required shall be filed with the distributor's, producer-distributor's, dealer's, processor's, or handler's application for a license, or license renewal, and shall be filed within the time for filing such application or renewal. In any event, all bonds must be filed no later than February of 1972. The bond shall become effective upon its being filed with the commission for the entire license year, or for that part of the license year in which the distributor, producer-distributor, processor or handler became engaged in the milk business. Any bond filed with the commission shall become effective upon being filed, whether or not it is approved by the commission, and shall no longer be of effect during the license year only when it has been replaced by a bond approved by the commission to be substituted therefor. The bond herein required shall be an obligation independent of the granting of a license and shall remain in full force and effect for and during the license year designated, as long as the distributor, producer-distributor, processor or handler purchases or receives milk from producers or is indebted to pay producers for any milk delivered during said license year, whether or not a license is granted the distributor, producer-distributor, processor or handler or a license granted the distributor, producer-distributor, processor or handler remains in force. The commission shall determine within a reasonable time after the close of a license year which distributors, producer-distributors, processors or handlers have paid all amounts protected by their bonds filed with the commission, and if the commission finds that all amounts protected by the bond of a distributor, producer-distributor, processor or handler have been paid,, it shall thereafter return the bond for said past license year to each such distributor, producer-distributor, processor or handler.

(4) Requisites of bonds; substitution.—A corporate surety bond shall be executed to the state of Alabama by the distributor, producer-distributor, processor or handler, as principal, and by a corporate surety company. The commission shall have

no power to reject any corporate surety bond which is so executed by a corporate surety company authorized to do business in this state as surety. An individual surety bond shall be executed to the state of Alabama by the distributor, producer-distributor, processor or handler, as principal, and by one or more individuals, as surety or sureties, who shall have sole title to real estate, the fair valuation of which, free and clear, or in excess, of all encumbrances, shall be at least equal to the amount of the bond. A collateral bond shall be executed to the state of Alabama by the distributor, producer-distributor, processor, or handler, as principal, shall set forth therein the collateral posted with such bond, and shall have attached thereto the collateral properly assigned and transferred to the state of Alabama. The collateral posted with such bond shall be cash in an amount equal to the amount of the bond; or such bond shall be secured by an actual deposit with the commission, or with a bank, bank and trust company, or national bank within the state of Alabama, of money to the full amount of the bond; or by securities to such amount, consisting of interest-bearing obligations of the United States Government, of this state, or of any political subdivision of this state, or by any other security or securities approved by the commission. The security or securities deposited therewith shall constitute a trust fund for producers from whom the distributor, producer-distributor, processor or handler purchases milk.

The commission may likewise grant to any distributor, producer-distributor, processor or handler the authority to substitute for any bond, surety or any collateral, another bond, surety or other collateral, provided that such other bond, surety or collateral meets all the requirements of this Act.

(5) Financial statement.—A distributor, producer-distributor, processor or handler shall, from time to time, when required by the commission, make and file with the commission a verified statement of his disbursements, or of any other facts in connection with his business, during a period to be prescribed by the commission, which financial statement shall contain the names of the producers from whom milk was purchased, acquired, received or handled on consignment or otherwise, the amount due to the producers, and any other relevant facts required by the commission pertinent to the distributor, producer-distributor, processor or handler or the distributor's producer-distributor's, processor's or handler's surety or sureties.

(6) Increase or decrease of bond.—If it shall appear from the distributor's, producer-distributor's, processor's or handler's financial statement, or from facts otherwise ascertained by the commission, that the bond afforded producers selling, supplying or making available on consignment or otherwise milk to

such distributor, producer-distributor, processor or handler does not adequately protect such producers, the commission may require such distributor, producer-distributor, processor or handler to procure an additional surety, or to give an additional bond or additional security for the collateral bond, in a sum to be determined by the commission, which (1) shall not exceed more than fifty per centum of the value of the highest aggregate amount of milk purchased, acquired or received on consignment or otherwise by the distributor, producer-distributor, processor or handler from producers in any one month during the preceding or current year, which value shall be computed according to the prices applicable, or which (2) shall be a sum not exceeding by more than fifty percentum the amount found to be due and owing producers by such distributors, producer-distributors, processors or handlers on a particular date determined by the commission, whichever sum is greater, but the total increase shall not in any event exceed fifty thousand dollars (\$50,000.00). In the case of a distributor, producer-distributor, processor or handler who pays producers in full each week for milk purchased, acquired or received or handled on consignment or otherwise by him from such producers, any increase required hereunder shall not exceed more than twenty-five per centum of such value or amount, but the total increase in any event shall not exceed twenty-five thousand dollars (\$25,000.00).

The commission may grant a reduction of the bond or the collateral, or release an additional surety, if it shall appear that owing to a decrease in the milk purchased, received or handled by the distributor, producer-distributor, processor or handler, or to other causes, a bond in a lesser amount or with fewer sureties will protect producers selling, supplying or making available milk to such distributor, producer-distributor, processor or handler.

(7) Duty of State Treasurer.—All bonds, together with any moneys, or securities given as collateral therefor, received by the commission from distributors, producer-distributors, processors or handlers pursuant to the provisions of this section, shall be transmitted by the commission to the State Treasurer for safekeeping, subject to withdrawal in whole or in part at any time by the commission.

(8) Interest or dividends upon securities.—The distributor, producer-distributor, processor or handler shall be entitled to all moneys received by the State Treasurer as interest or dividends upon any security or securities deposited by such distributor, producer-distributor, processor or handler with the commission and transmitted by the commission to the State Treasurer for safekeeping, in accordance with the provisions of this Act: Provided, however, that the distributor, producer-

distributor, processor or handler shall not be entitled to interest or dividends if there is on file with the commission a valid unpaid claim of a producer against the distributor, producer-distributor, processor or handler, based on milk sold, supplied or made available by such producer to the distributor, producer-distributor, processor or handler.

(9) Suit by commission.—The commission shall have the power, in its discretion, to sue on the bond on behalf of producers. Suit may be brought in the name of the commission, or of the attorney general, or of the state of Alabama, or in any manner as debts are now by law recoverable.

(10) Procedure for disbursing proceeds.—The commission shall prescribe the procedure for the payment, out of the proceeds of any bond or collateral required by this article, of the amounts found due to producers or handlers or dealers, based on sales or deliveries of milk by them to a distributor, producer-distributor, processor or handler who has posted a bond or collateral: Provided, however, that if the proceeds of a bond or of collateral which has been posted by a distributor, producer-distributor, processor or handler shall be insufficient to pay in full the amounts due to producers who have sold or supplied milk to such distributor, producer-distributor, processor or handler, the moneys available shall be divided pro rata among such producers.

(11) Cooperatives.—A cooperative agricultural association or corporation organized under the laws of Alabama or an association organized under the laws of Alabama in which producers hold membership or an association organized under the laws of Alabama which holds written authority from producers to act as agent or representative in purchasing or marketing producer milk, shall be deemed a producer within the provisions of this section and shall be entitled to its benefits. Such an association or corporation if operated for the benefit of producers under contract with it and not conducted for profit, shall not be required to file a bond under the provisions of this article."

SECTION 13. Section 217 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§217. Granting and revoking licenses.—At any time that an application is made for a license as provided by this chapter the dairy commission may, if it deems it advisable or necessary, conduct an investigation before granting said license to determine if such applicant is entitled to the license for which he is applying. The dairy commission may decline to grant such a license upon any of the following grounds: Where it ascer-

tains that such person so applying has prior thereto held a license from the Alabama Dairy Commission under this or any other prior act of the legislature and where said license has been revoked by said dairy commission or any prior dairy commission for a violation of any provision of this or any other prior act of the legislature or any lawful order, rule or regulation of the dairy commission operating thereunder, but the dairy commission shall have the discretion to grant said license if, in its opinion, such applicant is then willing, able and intends to comply with all provisions of this chapter and all lawful orders, rules and regulations of the dairy commission, or the dairy commission may refuse to grant or renew a license where, after an investigation, it determines that said person so applying for a license is insolvent or owes for milk purchased in a former course of dealings which he fails or refuses to pay. The dairy commission may suspend or revoke a license already granted upon due notice and opportunity of hearing to the licensee when: The dairy commission, after a hearing, has become convinced that a milk dealer or distributor has rejected without reasonable cause any milk purchased, or has rejected without reasonable cause or reasonable advance notice milk delivered in ordinary continuance of a previous course of dealings. Or where the milk dealer, distributor, bob-tailer, producer-distributor or hauler has failed to account and make payment without reasonable cause for milk purchased by him. Or where the milk dealer, distributor, bob-tailer, cooling station, producer-distributor, producer, or hauler has committed any act injurious to the public health or calculated to defraud the public either in the production or marketing of milk or where said person has continued in a course of dealing in violation of this chapter or of any lawful order, rule or regulation of the dairy commission intended by such person to defeat the purposes of this chapter. Or where a milk dealer, distributor, bob-tailer, cooling station, producer-distributor, or hauler has continued in a course of dealings of such nature as to satisfy the dairy commission of his inability or unwillingness to comply with the provisions of this chapter or the lawful order, rules or regulations of the dairy commission, or where the milk dealer, distributor, bob-tailer, producer-distributor, producer, or hauler has been a party to a combination to fix prices contrary to this chapter or the lawful orders, rules and regulations of the dairy commission. A cooperative marketing association of dairymen organized under or operated pursuant to the provisions of this Code, or amendments thereto, and engaged in the collective sales or marketing for its members or shareholders shall not be deemed or construed to be a conspiracy or combination in restraint of trade or an illegal monopoly, nor shall the contracts, agreements, arrangements or combinations heretofore or hereafter made by such association or members, officers or directors

thereof, in making such collective sales and marketing and prescribing the terms and conditions thereof shall be deemed or construed to be conspiracies or to be injurious to public welfare, trade or commerce, if otherwise authorized by such chapter or law, unless such association or its members, officers or directors violate any provisions of this chapter or any lawful rule, regulation or order of the dairy commission. Or where milk dealers, distributors, bob-tailers, cooling stations, producer-distributors, producers, and haulers fail to keep such records as required by the dairy commission or where they, or either of them fail or refuse to furnish statements, reports, or information required of them by the dairy commission. Or where it is shown that any statement upon which the license was issued is or was false or misleading on any matter which would be grounds for the refusal of the dairy commission to issue a license. Or where the license has violated any lawful order, rule or regulation of the dairy commission. Or where the licensee has been required to give a bond or an additional bond and has failed to do so. Or where the required health permit in cases where health permits are required has been suspended or revoked by the board of health having jurisdiction thereof. Or where licensee has failed to pay his license fee within the time allowed by law or within the time extended to him by the dairy commission for the payment of such fee. Or where a licensee solicits or attempts by any manner or method to induce or coerce another licensee to sell such licensee milk at less than the lawful minimum price or prices established by the dairy commission for the sale of such milk. In such event, the dairy commission may, after becoming convinced that any such licensee has committed such acts as set out in this sub-section, order any and all licensees to discontinue and to cease supplying such licensee with milk for such time as the dairy commission may find necessary to prevent such illegal practice. Or where a licensee, who is affiliated or owned by a foreign corporation, purchases milk from a licensee who is a domestic corporation or who sells milk in intrastate business, but who keeps the books and records of such transactions in another state; refuses or fails, after notice to furnish the dairy commission true and verified records of all such transactions as the dairy commission may deem necessary or advisable to carry out the purposes and provisions of this chapter.

Any store, cooling station or hauler who fails to pay his license when due or within the time, if any, extended by the dairy commission for the payment of such licensee fee, shall automatically owe a penalty of ten per cent (10%) of the yearly license fee due by him. Any distributor or cooperative marketing association which fails to pay the producers, bob-tailers and the distributors license fees due by it by the twentieth day of the month following the month in which such license fees

accrue or within the time extended for such payment by the dairy commission, shall automatically owe a penalty of ten per cent (10%) of the delinquent license fee.

In the event of a license being revoked for failure to pay a license fee as required by this chapter, the license shall only be reinstated upon payment of all the fee due thereon, plus the penalty hereinabove prescribed. The dairy commission may grant or renew a license or may permit a licensee to retain his license conditioned upon the agreement of the applicant or licensee to do the things required by this chapter of him to do, or of any lawful order, rule or regulation of the commission, or conditioned upon his agreeing to omit, cease or desist from doing anything which he has been doing in violation of the provisions of this chapter or any lawful order, rule or regulation of the dairy commission. The dairy commission shall have the further power, in the event of such agreement and the subsequent failure of such licensee to comply with such agreement, to revoke such person's license the same as it might have done when said act of omission or commission was originally omitted or committed.

In the event of a violation of any provisions of this chapter or any lawful order, rule or regulation of the dairy commission, which is made grounds of a revocation of a license in this section, the dairy commission may, in its discretion, in lieu of revoking said person's license, assess a fine against such licensee for such violation not to exceed the sum of five hundred dollars for each separate offense. Each days violation of any such provisions of order, rule or regulation shall constitute a separate offense. All fines assessed by the dairy commission against a licensee shall be paid over to the dairy commission or its financial officer, and shall in turn be audited into the treasury, the same as license fees levied under this chapter and any sum of money so derived from such fines shall be placed in the funds of the dairy commission and used by it for the administration of this chapter, the same as provided for license fees levied under this chapter. Failure of a licensee to pay a fine assessed by the dairy commission against him for a violation, as set out in this section, within the time allowed by the dairy commission for the payment of such fine, which in no event shall exceed ninety days, shall unless appealed from, as hereinafter provided, constitute an automatic revocation of such licensee's license."

SECTION 14. Section 218 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§218. Records.—In addition to the records which the dairy commission is heretofore authorized to require of licensee, the dairy commission shall require licensee to keep the following records: record of all milk produced, and the source or location

of the production of such milk. A record of all milk received or purchased detailed as to source and as to names and addresses of suppliers with a record of the butterfat test, price paid, deductions or charges made. A record of all milk sold classified as to grade or usage, location and market outlet, and size and style of container with prices and amount received therefor. A record of the quantity of each controlled milk product manufactured and quantity of milk or cream used in the manufacture of each controlled product. Also the quantity and value of milk products sold. A record of wastage or loss of milk or butterfat. A record of items of operating or handling expenses and profit or loss. A record of the use made of all milk received from all sources, including a complete accounting of all butterfat and skim milk received. Such other records and information pertaining to milk as the dairy commission may deem necessary for the proper enforcement of this chapter.

All licensee producer-distributors, distributors, processors, shall report each month to the Alabama Dairy Commission, on forms provided or approved by the Alabama Dairy Commission, for each plant or receiving station at which milk is received, giving a complete accounting of all quantities of skim milk and butterfat received at such plant or receiving station and a complete report of all quantities of skim milk and butterfat contained in all milk and milk products, including inventories of packaged and bulk fluid milk products, used by such licensee."

SECTION 15. Section 219 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§219. Reports.—Each licensee shall from time to time, as required by rule or order of the commission, or by special order of its authorized employees, make and file a verified report on forms prescribed by the dairy commission of all matters on account of which a record is required to be kept together with such other information or facts as may be pertinent and material within the scope of the purposes and intent of this chapter. Such reports shall cover such period of time or times as specified in the order of the dairy commission or its duly designated employees."

SECTION 16. Section 220 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§220. Executive secretary and financial officer.—The dairy commission shall have the power, and it shall be its duty to designate an executive secretary who shall have charge of the administration of the dairy commission's orders, rules and regulations, and who shall also serve as financial officer of the

commission, and who shall be authorized to accept or receive money paid or to be paid to the dairy commission, either as license fees or fines as provided by this chapter. Such person shall, before he enters upon the discharge of his duties, execute and file a bond in such amount as may be fixed by the treasurer, not to exceed ten thousand dollars, as may be provided by law for public officers. The executive secretary shall be in the exempt service of the state and his salary shall be fixed by the dairy commission, with the approval of the Governor, as prescribed in Act No. 171, S. 364 of the Regular Session of 1969 (Acts of 1969, p. 462)."

SECTION 17. Section 221 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§221. Disposition of license fees and fines.—The executive secretary and financial officer shall deposit all monies received by him under the provisions of this chapter with the treasurer, auditing said money through the comptroller's office, as is provided for other funds paid into the treasury. All such money is hereby appropriated to the dairy commission to defray the expenses incurred in carrying out and enforcing the powers and duties granted and imposed by this chapter, which shall be paid out of the treasury upon warrants drawn by the comptroller, upon the requisition of the financial officer; but in no event shall warrants against such funds be requisitioned or issued in a total amount in excess of the amount appropriated therefor by the legislature in the general appropriations bill. All monies paid by the dairy commission into the treasury shall be placed in a special fund therein, to be known as "dairy commission fund", and used only for the purpose of the administration of this chapter, and such expenditures shall be budgeted and allotted in accordance with the provisions of Title 55, chapter 4, article 3, of the Code of Alabama of 1940. The books and records of the dairy commission shall be subject to state audit, the same as any other state agency."

SECTION 18. Section 222 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§222. Construction, exceptions and limitations.—The license required by this chapter shall be in addition to all other license required by any municipality of the state of Alabama. This chapter shall apply to every part of the state of Alabama, but shall not be construed to conflict with, alter or repeal laws in force relating to various boards or departments of health or any municipal ordinance regulating the health requirements of milk, nor the sanitary code or codes in force in any county or municipality, or amendments thereof duly adopted insofar as

they apply to or affect milk. If any clause, sentence, or paragraph or part of this chapter or any order, rule or regulation of the dairy commission shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter or of said order, rule or regulation, but shall be confined in its operation to the clause, sentence, paragraph or part of this chapter or order, rule or regulation of the dairy commission, directly involved in the controversy in which such judgment shall have been rendered. All other parts of this chapter or of any order, rule or regulation of the commission, otherwise constitutional or valid, shall be held in full force and effect. No provision of this chapter shall apply or be construed to apply to foreign or interstate commerce except insofar as the same may be effective pursuant to the United States Constitution, and to the laws of the United States, enacted in pursuance thereto. It is the intention of the legislature, however, that the instance (instant), whenever that may be, that the handling within the state by a milk dealer, producer, distributor or producer-distributor or milk produced outside of the state, becomes the subject of regulation by the state in the exercise of its police powers, the provisions, provided for in this chapter, affecting intrastate milk, shall immediately apply and the powers conferred by this chapter shall attach thereto."

SECTION 19. Section 223 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§223. Orders fixing prices and handling charges for milk. —The Alabama Dairy Commission shall investigate what are reasonable costs and charges for transporting, hauling, bottling, packaging, distributing, processing and marketing of milk at both retail and wholesale and other services performed in respect to milk and what prices are reasonable for milk marketed and sold in the several localities and markets of the State and what prices will, under the various conditions existing in different markets, localities and zones in the State, best protect the milk industry within the State and insure a sufficient quantity of pure and wholesome milk to the inhabitants of the State and be most in the public interest. The Alabama Dairy Commission shall regularly conduct cost studies, and may employ independent accountants and accounting firms to examine, study, and reproduce any and all records of the distributors, producer-distributors, retailers or processors operating within the State, to determine what costs and charges are fair and reasonable for hauling, transporting, bottling, packaging, distributing, processing and marketing milk at wholesale and retail. The reasonably necessary cost of handling fluid milk or fluid cream, or both, which is incurred by stores, as such costs are

determined by impartial cost surveys, or examination of the books and records, or both, of such portion of the stores in such marketing area as are reasonably determined by the commission to be sufficiently representative to indicate such costs of all stores in such marketing area. In determining such costs which are incurred by stores which handle commodities in addition to fluid milk or fluid cream, or both, the commission shall determine the cost of doing business for each such representative store and for such purpose shall consider all costs and expenses of doing business, including depreciation on inventory and equipment. In the absence of satisfactory evidence to the contrary, the cost of handling such fluid milk or fluid cream, or both, shall be presumed to be the same percentage as the cost of doing business of such store in conducting its entire business. Before fixing prices for hauling, processing, or transportation charges, the dairy commission shall hold public hearings in the milk shed or milk sheds affected thereby, and hear evidence under oath relative to the prices to be fixed for the sale of milk in the milk shed where said prices are sought to be fixed, at which meeting the consuming public shall be entitled to offer evidence and to be heard, the same as persons engaged within the milk industry, but the dairy commission, in fixing prices, shall be entitled to consider matters within its own knowledge and matters within the knowledge of the various members of the commission, as well as matters which it has ascertained from other milk sheds within the state and matters ascertained by it, affecting conditions as they relate to milk in other states. After conducting said public meetings and taking evidence, the dairy commission may, at its discretion, take the evidence, and matters submitted to it under advisement and deliberate among itself in private and render a decision at a future date. Notice of all price fixing meetings shall be given to interested parties and to the consuming public by advertisement run in a newspaper having general circulation within the milk shed, which said notice shall be run at least once, not less than ten, not more than thirty days prior to the date set by the dairy commission for such hearing. Such publication shall be deemed sufficient and legal notice for all purposes required by this chapter to be published. After holding such meetings and making such other investigation as the dairy commission may deem advisable, and preparing a written finding of fact, the dairy commission may fix by official order reasonable costs and charges as described in this Section.

The dairy commission is further empowered to fix the minimum or maximum prices, or both, to be charged, for milk sold wholesale or retail within each respective milk shed where such milk is sold for fluid consumption, regardless of where such milk may have been produced, when sold by producers, pro-

ducer-distributors, distributors, bob-tailers, milk dealers or stores or any of them, to consumers, to stores, to hotels or restaurants, to other milk dealers or to anyone else who purchases milk. The minimum wholesale or retail price or prices to be charged for milk in any of its forms, grades or uses shall not be fixed higher than is reasonably necessary to cover the cost of ordinarily efficient and economic production, cooling, pasteurizing, distributing, and marketing of such milk, which shall include, however, a reasonable return and profit upon labor and necessary investment.

The dairy commission may, after a hearing as provided in this section to determine the justness and reasonableness thereof, also fix the amount of charges to be allowed for the handling, transportation, cooling, processing, storing, or distribution of milk or any one or more of such charges in any transaction: between milk dealers and other milk dealers, producers and milk dealers, cooling stations, or distributors; or between any two or more of them.

After the dairy commission shall have fixed minimum or maximum prices or both for the sale, distribution, handling, processing, storing, transportation to be charged or paid for milk in any form, grade or use, included in the definition of milk, as used in this chapter, or as classified or provided for in this chapter, it shall be unlawful for any producer, producer-distributor, distributor, bob-tailer, milk dealer, store or their agents or employees, to sell or buy or to offer to sell or buy milk at any price less or more (where the dairy commission has established a maximum price) than such price or prices as shall be applicable to the particular transaction, and no method or device shall be lawful whereby milk is bought or sold or offered to be bought or sold at a price less or more than such price or prices as shall be applicable to the particular transaction whether by a discount or rebate, or free service or advertising allowance or a combined price for such milk together with other commodity or commodities or service or services, which is less or more than the aggregate of the prices for the milk and the price or prices of such commodity or commodities or service or services when sold or offered for sale separately or otherwise. The combining with milk of a commodity handled by the licensee at a price for the commodity other than milk at less than the price which such licensee sells such commodity other than milk to anyone who does not purchase milk shall be deemed to be combining one or more commodity or commodities with milk, which is less than the aggregate price for the milk and other commodity combined.

The dairy commission may, upon its own motion, or upon application from time to time, alter, revise, or amend an offi-

cial order theretofore made with respect to price or handling charges, or both, to be charged or paid for milk. Before making, revising or amending any order fixing the price or handling charges, or both, to be charged or paid for milk, the dairy commission shall hold a hearing on such matters in the same manner provided for herein for the original fixing of prices. All orders, rules and regulations of the dairy commission may be reviewed by certiorari as hereinafter provided for."

SECTION 20. Title 22, Code of Alabama, 1940, as amended, is amended by adding thereto Section 223(1), which shall read as follows:

"§223 (1). Producer price and handling charges.—The Alabama Dairy Commission shall investigate what are reasonable costs and charges for producing and marketing of milk by producers and producer associations and what minimum prices are reasonable for milk produced and marketed by producers and producer associations and sold in the several localities and markets of the State and what minimum prices will, under the varying conditions existing in different markets, localities and zones of the State, best protect the milk producing industry within the State and insure a sufficient quantity of pure and wholesome milk to inhabitants of this State and be most in the public interest. The Alabama Dairy Commission shall take into consideration the balance between production and consumption of milk, the cost of production in the marketing of milk, the purchasing power of the consuming public in the several localities, markets, and zones throughout the State, and other economic conditions affecting the production and sale of milk by producers and producer associations in the area. Before fixing minimum prices, the Alabama Dairy Commission shall hold public hearings in the milk shed or milk sheds affected thereby, and hear evidence under oath relative to the minimum prices to be fixed, for the sale of milk in the milk shed where said minimum prices are sought to be fixed, at which meeting, the consuming public shall be entitled to offer evidence and to be heard, the same as persons engaged within the milk industry, but the Alabama Dairy Commission, in fixing minimum producer prices shall be entitled to consider matters within its own knowledge and matters within the knowledge of the various members of the Alabama Dairy Commission, as well as matters which it has ascertained from other milk sheds within the State and matters ascertained by it, affecting conditions as they relate to milk in other States. After conducting said public meetings and taking evidence the dairy commission may, at its discretion, take the evidence, the matters submitted to it under advisement and deliberate among itself in private and render a decision at a future date. Notice of all price fixing meetings shall be given to interested parties and to the consuming public by advertise-

ment run in a newspaper having general circulation within the milk shed, which said notice shall be run at least once, not less than ten, not more than thirty days prior to the date set by the dairy commission for such hearing. Such publication shall be deemed sufficient and legal notice for all purposes required by this chapter to be published.

After holding such meetings and making such other investigation as the Alabama Dairy Commission may deem advisable, and after a written finding of fact, the Alabama Dairy Commission shall fix by official order the minimum price or prices within the milk shed to be paid by milk dealers, producers, distributors, bob-tailers, producer-distributors, and processors to producers and producer associations for milk in its various grades and uses as the Alabama Dairy Commission may determine are best to carry out the provisions of this chapter. The order of the dairy commission with respect to the minimum prices to be paid to producers and others, shall apply to the locality or zone in which the milk is produced, the markets in which milk so produced is sold, and may vary in different localities or zones or markets according to varying uses and different conditions. In fixing different minimum prices for milk produced in different localities but ultimately sold in the same milk shed, the commission may consider the distance between the various localities where the milk is produced and the milk shed where it is ultimately consumed, and may fix a different minimum price for milk produced nearer the point where it is sold than for milk produced at a greater distance, or the commission may fix a standard minimum price for the purchase of milk delivered at the plant of distribution or milk dealer within the zone and allow a deduction to the milk dealer or distributor from said minimum price for milk received by such distributor or milk dealer at its plant outside of the milk shed, which deduction shall be only such amount as is found reasonably necessary to cover the cost of collecting and transporting said milk from the point where it is produced to the point where it is consumed.

When in the judgment of the dairy commission, it is necessary or advisable, due to seasonable fluctuations or other unstable conditions, in order to promote a proper balance between the supply of and the demand for milk, to fix a lesser minimum price for milk which is produced in excess of what is needed for fluid milk consumption, the dairy commission may establish the quantity of milk for which the distributor or milk dealer shall pay the fluid or base milk price, and may establish a lesser minimum price for milk which is produced in excess of what is needed for fluid milk consumption. For this purpose, the dairy commission may compute said quantity upon a uniform system of plant usage, classifying milk according to its

various usage and establishing different minimum prices which the milk dealer or distributor shall pay for each classification, or the dairy commission may, if it deems it most advisable, establish a base surplus system, placing all milk sold by a plant for fluid milk consumption, including all milk as defined in the definition of fluid milk in one classification, establishing a minimum price therefor and all milk processed by such distributor or milk dealer into by-products into another classification, and fixing a lesser minimum price for said surplus milk so used in the by-products classification, or the dairy commission may use a combination of both systems. The dairy commission shall have authority to use the different systems of classifications in different milk sheds or different localities of the state as it deems most advisable to carry out the provisions of this chapter. The dairy commission shall have the power to establish uniform rules and regulations for the apportionment of this quota of base milk among the various producers who furnish such distributors and milk dealers with their regular milk supply used for such purposes, and may adopt such systems for the apportionment of such base or higher price classification of milk among the several producers as it may determine to be the most just and equitable in the administration of this chapter. For this purpose, the dairy commission may require any milk dealer or distributor to supply necessary information about the quantity of milk received from the producers during a specified period of time, and any other information necessary for the determination of this matter. The dairy commission may determine the minimum price to be received by producers for milk within the quota of base or higher price classification of milk and for surplus milk or milk in excess of such producers quota. Each order fixing minimum price or handling charges may classify milk for forms, classes, grades, or use as the dairy commission may deem advisable and may specify the minimum price in each classification, grade or use as the dairy commission may determine.

After considering evidence at a public hearing, the Alabama Dairy Commission may adopt and put into full force and effect an economic formula for computing minimum producer prices, which said economic formula may without further public hearings result in changes in the producer prices as the indices of said formula dictate. In the event the Alabama Dairy Commission does adopt such an economic formula, the commission may provide at any time for suspending temporarily the effect of said economic formula or the price changes dictated by said economic formula whenever the economic conditions of producing or marketing milk by producers or producer associations make it in the public interest for the temporary suspension of said economic formula. In the event an economic formula is

adopted by the Alabama Dairy Commission under the provisions of this Section, the Alabama Dairy Commission may alter or revoke said economic formula only after receiving evidence at public hearing and determining that it is in the public interest that said economic formula be altered or revoked. In the event that an economic formula is adopted under the provisions of this Section and said economic formula dictates changes in minimum producers pricing, said change in minimum producer pricing shall be effective and enforceable the same as if it had been expressly set by the Alabama Dairy Commission as the result of a public hearing."

SECTION 21. Section 224 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§224. Rules of fair trade practices.—In addition to the general and special powers heretofore set out, the dairy commission shall have the power to make and promulgate reasonable rules and regulations covering fair trade practices as they pertain to the transaction of business among licensees under this chapter, including: Preventing false or misleading advertisement; the misrepresentation of producers, milk dealers, producer-distributors, stores, distributors, bob-tailers, or cooling stations to consumers or among themselves, as such, pertaining to the quality of their product or service or of facts which they know to be false and which are made with the intent to deceive or defraud consumers or other milk dealers, producers, distributors, bob-tailers, cooling stations, producer-distributors, or stores; to prevent any act or combination of acts, on the part of licensees, intended to make inoperative the provisions of this chapter; to prevent sales promotion schemes which combine the giving of prizes with the purchase of milk directly or indirectly or which make a lottery of the sale of milk."

SECTION 22. Section 225 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§225. Illegal purchase or sales of milk bottles.—The commission shall have the authority, and is hereby empowered to enforce all laws now in effect or hereafter enacted by the legislature of Alabama and to adopt any rules and regulations necessary for the enforcement of such laws pertaining to the wilful use, sale, offering for sale, purchasing or the offering to purchase, of bottles, cans, crates, or other containers in which milk or milk products are sold and delivered."

SECTION 23. Section 226 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

“§226. Certiorari to review.—Any person affected by any order or action of the commission, who deems himself aggrieved by any such order or act may within ten days after receiving notice of any such action or order, have such order, or action reviewed by a writ of certiorari by filing in the circuit court of the county wherein said action or order was taken or made, a verified petition setting out the specific order or action, or any parts thereof whereby said person deems himself aggrieved, and such court shall only consider such matters as contained in the petition. Upon such petition being so filed a writ of certiorari shall be issued out of such court, directed to the dairy commission, requiring it to file with the court the records upon which such action or order was made, and requiring said commission to file an answer to said petition within thirty days after service of said writ, and upon said commission's filing said answer, issue shall be joined thereon without further pleading and the case considered on said petition, the record of said commission, and the answer filed by said commission, but no new or additional evidence shall be taken or heard by the court. If new or additional evidence is discovered by any party after the hearing by the dairy commission, the same may be made grounds for a motion for a new hearing before the dairy commission under the rules applicable for similar motions for a new trial in the circuit court of the State of Alabama. All such cases shall be given preferred settings, and shall be heard by the court as speedily as possible after issue is joined. Such court shall have the power to suspend or stay, such order or action by the commission complained of in such petition, pending final hearing only upon petition in error executing a bond in such amount as the court deems reasonably sufficient to compensate or cover any loss or penalty occasioned by such stay or suspension of such order or action, said bond to be payable to said commission, and in the event the order, or ruling of the commission is affirmed, execution shall be issued by said court on said bond for such amount, if any, as the court shall find necessary to compensate for damages sustained by such stay or suspension of such ruling or order, with cost of the proceedings, but in no case less than the reasonable cost of the transcript of the records of the dairy commission, which was had in the proceedings wherein the order, rule or regulation was made, which was appealed from, which cost shall be paid over to the dairy commission, and deposited by it in the treasury for its use, the same as all other monies received by the dairy commission. Upon final hearing, such court shall have jurisdiction to reverse, vacate or modify the order complained of, if upon consideration of the issues before the court, the court is of the opinion the order is unlawful or unreasonable. Nothing in this section shall be construed as depriving a defendant in a

criminal prosecution of a trial by jury, arising out of the violation of any provisions of this chapter.”

SECTION 24. Section 227 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

“§227. Hearings; fees.—Each officer, other than an employee of the commission, who serves any subpoena of the commission, shall receive the same fees as the sheriff, and each witness who appears in obedience to a subpoena, before the commission or a member or its executive secretary, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in county courts, which fees shall be audited and paid upon the presentation of proper vouchers, approved by any member of the commission and the executive secretary. No witnesses subpoenaed at the instance of a party or the commission, or one of its members, or its executive secretary shall be entitled to compensation unless the commission shall certify that his or her testimony was material to the matter investigated.”

SECTION 25. Section 228 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

“§228. Cooperative corporations.—It is the intent of the legislature that no provision of this chapter shall prevent, and no provision contained therein shall be deemed or construed to prevent, a cooperative corporation, organized or operated under or subject to the provisions of law applicable to cooperative marketing associations and associations and corporations who operate substantially as cooperatives and engaged in making collective sales or marketing of milk for the producers thereof, from blending the net proceeds of all its sales in various classes and whether in fluid form or as manufactured products, both within and without the state, and paying its producers such blended price, with such deduction and for differential as may be authorized under contract between such corporation and its producers, or from making collective sales of milk of its members or other producers, or both, represented by it, at blended price, based upon sales thereof in the various classes, and whether in fluid form or as manufactured products, both within and without the state, and which price is to be paid directly to the producers or to the cooperative corporation, or from owning, holding, handling, transferring, selling, assigning, or otherwise dealing with producer quota. Nothing herein contained shall prevent any milk dealer from contracting for his milk with such cooperative corporation in such manner, but all such contracts shall be upon the basis of the prices and handling charges fixed by the commission, with the result that the net price received

for milk by the cooperative corporation shall be commensurate with such prices and handling charges; and further provided that no milk dealer shall receive from a cooperative corporation, directly or indirectly, any discounts, rebates or compensation through rentals or otherwise for the purpose or with the effect of reducing the net cost to the dealer for milk purchased by or through a cooperative corporation. Also that no provision of this chapter, shall be deemed or construed to affect the contracts of such a cooperative corporation, with its producers, nor to affect or abridge the rights and powers of such a corporation except as in this chapter otherwise provided."

SECTION 26. Section 229 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§229. Cooperation with other governmental agencies.—In order to secure a uniform system of milk control, the commission is hereby vested with power, and it shall be its duty to confer and cooperate with the legally constituted authorities of other states and of the United States, including the secretary of agriculture of the United States, and for the foregoing purposes, the commission shall have the power to conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this chapter."

SECTION 27. Section 230 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§230. Violations made misdemeanors; penalties.—It shall be unlawful for any person to violate any provision of this chapter or any lawful order, rule or regulation of the Alabama dairy commission. Any person required by this chapter to be licensed, who shall produce, sell, distribute or handle milk in any way, except as a consumer, without first having obtained a license, as required of him by this chapter, shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not more than five hundred dollars. Each days violation of this provision shall constitute a separate offense."

SECTION 28. Section 231 of Title 22, Code of Alabama, 1940, as amended, is hereby revised and amended to read as follows:

"§231. Additional remedies.—The commission may institute such action at law or in equity as may appear necessary to enforce compliance with any provisions of this chapter or any lawful order, rule or regulation of the dairy commission, and in addition to any other remedy under this chapter, the dairy commission may apply for relief by injunction, mandamus or any

other appropriate remedy in equity without being compelled to allege or prove that an adequate remedy at law does not otherwise exist, nor shall the commission be required to give or post bond in any action to which it is a party whether upon appeal or otherwise. All legal actions may be brought by or against the commission in the name of the Alabama dairy commission and it shall not be necessary in any action to which the dairy commission is a party that such action be brought by or against the State of Alabama on relation of the Alabama dairy commission. The dairy commission shall have the power to institute an action by its own attorney or counsellor, but it shall have the right, if it deems advisable to call upon any county attorney or circuit solicitor, to represent it on an appeal to the appellate courts of this state, or it may associate its own counsellor with either in any court."

SECTION 29. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

SECTION 30. All laws or parts of laws which conflict with this Act are repealed.

SECTION 31. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 25, 1971.

Time: 12:10 P.M.

Act No. 409

S. 364—Cook, Bailes

AN ACT

To provide for the Alcoholic Beverage Control Board to issue liquor licenses to Civic Center Authorities established under Act No. 547 of the Regular Session of the Legislature of Alabama of 1965, approved August 20, 1965, (Ala. Acts, 1965, p. 797, et seq.); to regulate the issuance of such licenses; to provide the amount of the license tax, or fee, which shall be payable for such licenses; to provide that such license shall authorize the Civic Center Authority holding the same to keep and sell in its Civic Center alcoholic, malt and vinous beverages, and to repeal laws or parts of laws in conflict with the provisions of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions: As used herein the following words and terms have the meanings hereby ascribed to them. "ABC Law" means Chapter 1, Title 29, Code of Alabama of 1940 as amended, which establishes and governs the Alcoholic Beverage Control Board; "the Board" means the Alcoholic Beverage

Control Board; "Authority" means a Civic Center Authority heretofore or hereafter established by and under Act No. 547 of the Regular Session of the Legislature of Alabama of 1965, approved August 20, 1965, (Ala. Acts, 1965, pages 797, et seq.); "the Civic Center" means the civic center established by the Authority under Section 6 of said Act No. 547; "restaurant liquor license" means the restaurant license for which the ABC Law provides; "Civic Center liquor license" means the license which the Act provides for issuance to an Authority. Any word or term used herein which is defined in the ABC Law shall have the same meaning as that law ascribes to said word or term.

Section 2. Authority to issue liquor licenses to Civic Centers. The Board shall be authorized to issue a liquor license to any Authority, as provided for herein, which license shall entitle the Authority to purchase liquor from an Alabama liquor store and, subject to the provisions of the ABC Law and the regulations made thereunder, not in conflict with the ABC Law or with this Act, to keep and sell in any part of its Civic Center for consumption therein any such liquor and also any malt or brewed beverages or vinous beverages the holder of a restaurant liquor license is entitled to keep and sell.

Section 3. The Authority shall pay for the Civic Center liquor license a fee in the same amount as would be payable for the issuance of a restaurant liquor license in the city wherein the Authority is located.

The fee for the Civic Center liquor license shall be payable to the same officer to whom the restaurant liquor license is payable. The Civic Center liquor licenses shall be issued for the same periods as restaurant liquor licenses are issued. The laws governing the distribution of the fees paid for the issuance of restaurant liquor licenses shall govern the distribution of fees paid for Civic Center liquor licenses.

A Civic Center liquor license shall entitle the Authority holding the same to keep and sell beverages thereunder in any part of its Civic Center.

Such license shall not be assignable, and no tenant, lessee or concessionaire of the Authority shall be entitled to sell beverages under the Civic Center liquor license.

Section 4. Except as amended by this Act, the laws of the State and the regulations of the Board shall apply to any Authority in its operations under a Civic Center liquor license.

Section 5. This Act shall become effective upon its approval by the Governor or upon its otherwise becoming a law.

Passed August 24, 1971, the Governor's veto not withstanding.

Act No. 410

S. 365—Cook, Bailes

AN ACT

To provide that this act shall apply to each county of the State having a population of 500,000 or more, according to the last or any subsequent Federal census, and to each municipality of such county; to provide that within that area of any such county lying outside the corporate limits and police jurisdiction of any municipality the governing body of the county shall have exclusive authority to prohibit the giving away, selling, serving, or drinking of alcoholic beverages in public places at such hours, or times, as may be specified by the governing body, and also exclusive authority, in the last mentioned area, to prohibit in public places the sale, or service of alcoholic beverages except to persons seated at tables, or to impose restrictions on the sale, or service, of such beverages to persons not seated at tables; to provide that within that area lying within the corporate limits or police jurisdiction of any such municipality the governing body of the municipality shall have the exclusive authority to prohibit the giving away, selling, serving or drinking of alcoholic beverages in public places at such hours, or times, as may be specified by the governing body, and also exclusive authority in the last mentioned area to prohibit in public places the sale, or service, of alcoholic beverages except to persons seated at tables; or to impose restrictions on the sale, or service, of any such beverages to persons not seated at tables; to provide that the governing body of any such county or any such municipality, shall have the power to adopt ordinances prescribing any prohibition or restriction this act authorizes the county or city to establish; to provide that any violation of any such ordinances shall constitute a misdemeanor; to repeal any such ordinance of any such county or any such municipality in effect when this act becomes effective in such county or such municipality; to repeal all laws or parts of laws in conflict with the provisions of this act except laws prohibiting or regulating the sale or use of alcoholic beverages on election day or in relation to elections; and to expressly provide that this act repeals any part of either of the following laws in conflict with this act: Act No. 102 of the Regular Session of the Legislature of 1949, approved June 20, 1949, (Ala. Acts, 1949, p. 120) and Section 44, Title 29, Code of Alabama of 1940, as now or hereafter amended.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply to any county of the State having a population of 500,000 or more according to the last or any subsequent census, and to no other county.

Section 2. The following terms shall have the meanings hereby ascribed to them: "the county" means any county subject to this act; "the city" means any municipality subject to this act; "municipal territory" means the area lying within the corporate limits or police jurisdiction of the city; "county territory" means territory which is in the county and no part of which is in any municipal territory; "alcoholic beverage" means any beverage for the retail sale of which beverage Chap-

ter 1, Title 29, Code of Alabama of 1940, as heretofore or hereafter amended, requires a license; "public place" means any place where alcoholic beverages are sold, or offered for sale, including restaurants, hotels and clubs.

Section 3. The governing body of the county is hereby authorized to adopt ordinances applying in the county territory, and prohibiting the giving away, selling, serving or drinking of any alcoholic beverage in any public place during the hours, or at the times, specified in the ordinances. Provided, however, no such ordinance shall authorize the giving away, selling or serving of any alcoholic beverage in any public place after 2 O'clock A.M. on Sunday.

Section 4. The governing body of the city is hereby authorized to adopt ordinances applying in the municipal territory, and prohibiting the giving away, selling, serving or drinking of any alcoholic beverage in any public place during the hours, or at the times, specified in the ordinances. Provided, however, no such ordinance shall authorize the giving away, selling or serving of any alcoholic beverage in any public place after 2 O'clock A.M. on Sunday.

Section 5. The governing body of the county is hereby authorized to adopt ordinances applying in the county territory and prohibiting the sale, or service, of alcoholic beverages in public places except to persons seated at tables, or imposing restrictions on the sale, or service, of such beverages in public places in such territory to persons not seated at tables.

Section 6. The governing body of the city is hereby authorized to adopt ordinances applying in the municipal territory and prohibiting the sale, or service, of alcoholic beverages in public places except to persons seated at tables, or imposing restrictions on the sale, or service, of such beverages in public places in the municipal territory to persons not seated at tables.

Section 7. If any present or future law of this State requires that the ordinances of a county or city subject to this act be published before becoming effective, no ordinance adopted hereunder by any such county or by any such city shall become effective until published as such law requires.

Section 8. Any person who violates any such ordinance is guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than three months.

Section 9. (a). Subject to the exceptions stated in subsection (b), below, the purposes of this act are as follows: to

confer upon the governing body of the county exclusive authority to determine the hours, or times, at which alcoholic beverages can be given away, served or consumed in public places in the county territory and also exclusive authority to prohibit in public places in the county territory the sale, or service, of alcoholic beverages except to persons seated at tables, or to regulate in public places in county territory the sale, or service, of alcoholic beverages to persons not seated at tables; and to confer upon the governing body of the city exclusive authority to determine the hours, or times, at which alcoholic beverages can be given away, served or consumed in public places in the municipal territory and also exclusive authority to prohibit in public places in the municipal territory the sale, or service, of alcoholic beverages except to persons seated at tables or to regulate in public places in the municipal territory the sale, or service, of alcoholic beverages to persons not seated at tables.

(b) Upon the effective date of this act all laws, or parts of laws, whether general, local or special, prescribing the hours, or times, at which alcoholic beverages can be given away, sold, served or consumed, or prohibiting the sale, or service, of alcoholic beverages to persons not seated at tables, or imposing restrictions on the sale, or service, of alcoholic beverages to persons not seated at tables, are hereby repealed to the extent that such laws conflict with the provisions of this act; provided, however, this act shall not repeal, or otherwise affect, any law prohibiting the sale, or use, of any alcoholic beverages on any election day. Without limiting the generality of the foregoing repealing clause, it is hereby expressly provided that this act, as of the effective date thereof, repeals any part of the two laws mentioned in the sentence next following which is in conflict with this act. The two laws referred to in the next foregoing sentence are Act No. 102 of the Regular Session of the Legislature of Alabama of 1949, approved June 20, 1949, (Ala. Acts, 1949, p. 130) and Section 44, Title 29, Code of Alabama of 1940, as heretofore or hereafter amended.

Section 10. This act is cumulative, and it shall not be construed to repeal, or qualify, any power the governing body of the county or the governing body of the city had prior to the adoption of this act.

Section 11. The provisions of this act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. This act shall become effective upon its approval by the Governor or upon its otherwise becoming a law.

Passed August 24, 1971 the Governor's veto not withstanding.

Act No. 411

H. 827—Smith (P)

AN ACT

Proposing an amendment to the Constitution of Alabama authorizing the Legislature to provide by local law the manner in which applications for registration to vote in Talladega County shall be made.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is proposed, to become valid as a part of the Constitution when approved by the qualified electors and proclaimed by the Governor as prescribed by law:

Proposed Amendment

The Legislature may from time to time, by local law, provide that applications for registration to vote in Talladega County need not be made in person before the board of registrars of such county, or any member thereof, and may provide by such local law the manner in which such applications shall be made; provided, however, that nothing in such local law shall abrogate the authority of the board of registrars to pass upon the qualifications of those applying for registration to vote; and provided, further, that nothing in such local law shall otherwise provide for any qualifications to vote which differ from the general election laws of the state.

Section 2. An election upon the proposed amendment is ordered to be held on the first Tuesday after the expiration of three months from final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama, as amended, and Chapter 1, Article 18, Title 17 of the Code of Alabama 1940.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the State. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

Constitutional amendment.

Passed the House June 29, 1971.

Passed the Senate August 24, 1971.

Act No. 412

S.J.R. 71—O'Bannon

SENATE JOINT RESOLUTION

NAMING THE INFIRMARY AT FLORENCE STATE UNIVERSITY IN HONOR OF DR. THOMAS L. BENNETT

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the infirmary at Florence State University shall be known as the Thomas L. Bennett Infirmary, as a proper tribute to Dr. Thomas L. Bennett, who served as university physician from 1932 until 1968 with honor and devotion to the well-being of his fellowman.

Approved August 26, 1971.

Time: 2:30 P.M.

Act No. 413

S.J.R. 72—O'Bannon

SENATE JOINT RESOLUTION

NAMING THE HEALTH, PHYSICAL EDUCATION, AND RECREATION BUILDING AT FLORENCE STATE UNIVERSITY IN HONOR OF HUBERT A. FLOWERS

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Health, Physical Education, and Recreation Building at Florence State University shall from this day forward be known as the Hubert A. Flowers Hall, in honor of Hubert A. Flowers who served with dedication and distinction as Chairman of the Department of Health, Physical Education, and Recreation of that institution from 1929 until his retirement in 1969.

Approved August 26, 1971.

Time: 2:31 P.M.

Act No. 414

S.J.R. 73—O'Bannon

SENATE JOINT RESOLUTION

NAMING THE SCIENCE BUILDING AT FLORENCE STATE UNIVERSITY IN HONOR OF DR. HOMER H. FLOYD

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the science building at Florence State University be named and known as Homer H. Floyd Hall, as a fitting tribute to Dr. Homer H. Floyd who with distinction and devotion served as Chairman of the Science Department of that institution from 1927 until his retirement in 1962.

Approved August 26, 1971.

Time: 2:32 P.M.

Act No. 415

S.J.R. 74—O'Bannon

SENATE JOINT RESOLUTION

NAMING THE AUDITORIUM AT FLORENCE STATE UNIVERSITY IN HONOR OF DR. ETHELBERT B. NORTON

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the auditorium, located in the Lurleen Burns Wallace Fine Arts Center, at Florence State University shall be known as the Ethelbert B. Norton Auditorium, in honor of Dr. Ethelbert B. Norton who since December 10, 1948 has served with dedication and inspirational leadership as president of that institution. Said auditorium shall be so named upon the retirement of Dr. Norton.

Approved August 26, 1971.

Time: 2:33 P.M.

Act No. 416

S. 30—Wilson

AN ACT

To amend Sections 31 and 33 of Title 13, Code of Alabama 1940, as amended, pertaining to the election by the chief justice or any associate justice of the supreme court to become a supernumerary justice, prescribing the conditions for such election, and further prescribing the term of office of supernumerary justices, and the duties, powers, and salaries of such justices.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 31, Title 13, Code of Alabama 1940, as amended, is hereby amended and reenacted to read as follows:

31. A. The chief justice or any associate justice of the supreme court who becomes seventy years of age during the term for which he has been elected and is serving, and who is qualified to assume supernumerary status as herein below provided, must elect to become supernumerary justice at or before the expiration of the term he is then serving, otherwise he will be deemed to have waived and forfeited his right to elect to become a supernumerary justice.

B. The chief justice or any associate justice of the supreme court may elect to become a supernumerary justice if he

(1) has served for fifteen years as a justice of the supreme court or as a judge of the court of appeals or circuit court or any two or more of them consecutively, the last twelve years of which has been continuous, and has reached or passed the age of sixty-five years; or

(2) has served continuously for fifteen years as a justice of the supreme court or as a judge of the court of appeals or circuit court, or any two or more of them consecutively, and who has become physically unable to carry out his duties on a full time basis, proof of such disability being made by certificate of three reputable physicians; or

(3) has served continuously for fifteen years as a justice of the supreme court or as a judge of the court of appeals or circuit court, or any two or more of them consecutively, and has attained age sixty-five less one year for each year of service in excess of fifteen; or

(4) has served continuously for ten years as justice of the supreme court or as a judge of the court of appeals or circuit court, or any two or more of them consecutively, and who is not less than seventy years of age; or

(5) has served for twenty-four years as a justice of the supreme court or as a judge of the court of appeals or circuit court, or any two or more of them consecutively, or for not less than four terms the last ten years of such service having been continuous.

Such election by such supreme court justice shall be made by filing, while in the service, a written declaration with the governor, who, upon finding the existence of conditions as herein specified shall endorse his approval thereon.

Section 2. Section 33, Title 13, Code of Alabama 1940, as amended, is hereby amended and reenacted to read as follows:

33. Supernumerary justice of the supreme court shall hold office during good behavior and may be removed only by impeachment for causes specified in section 173 of the Constitution. Each supreme court supernumerary justice shall receive annually a salary equal to seventy-five percent of the salary paid a justice of the supreme court from time to time which shall be payable out of the treasury as the salaries of other supreme court justices are paid. Such supernumerary justice while serving on the supreme court or the courts of appeals, at the request of the chief justice or presiding judge of one of the courts of appeals, or governor, as provided in section 32 of this title as amended, shall receive an additional sum, during the

term of such service, which, when added to the salary of a supernumerary justice would amount to two hundred fifty dollars (\$250) per month less than the monthly salary of a justice of the supreme court, payable out of the treasury as the salaries of other supreme court justices or courts of appeals judges are paid, upon a certificate of the chief justice, with the advice of the supreme court, or of the presiding judges of the courts of appeals with the advice of the respective court of appeals, of such service by the supernumerary justice at his request or that of the governor. All supernumerary justices shall continue on a service status as requested by either the chief justice or presiding judge or the governor with any appellate court so long as he satisfactorily performs such duties as may be assigned to him by the chief justice of the supreme court or the presiding judges of the courts of appeals. The chief justice, with the advice of the supreme court, or the presiding judges of the courts of appeals, with the advice of the respective court of appeals, shall determine whether such supernumerary justice is satisfactorily performing his assigned duties and a decision at any time by the chief justice with the advice of the supreme court or of the presiding judges of the courts of appeals, with the advice of the respective court of appeals, that such supernumerary justice is not performing such duties shall require the immediate removal of the supernumerary service status with an appellate court and a cessation of the additional service status salary; whereupon, the supernumerary justice shall immediately revert to the regular supernumerary status. The compensation for any status, whether regular or service, provided for in this section shall be paid in the same manner as the regular justice is paid. Upon approval by the governor of an election by a supreme court justice, as authorized by section 31 of this title the office then held by him shall become vacant and the vacancy shall be filled as provided by article 6, section 158 of the Constitution.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 2:35 P.M.

To provide a form of municipal government to be known as the mayor-council form of government, which may be adopted by any city in the State of Alabama having a population of not less than 30,000 nor more than 33,000 according to the most recent federal decennial census; to provide the method by which any such city may adopt the mayor-council form of government; to provide for the calling and holding of elections to vote thereon; to define and provide the legal status, form of government and powers of any such city under the mayor-council form of government; to provide as the governing body of such city a city council; to provide for the number of members of the council, their election and terms of office; to provide the functions, duties, powers and authority of the city council; to provide for the election, appointment or designation of officers and employees of the city and for their qualifications, duties, functions, powers and authority; to provide for the election, term, qualifications and compensation of a mayor and for the filling of vacancies in the office of mayor and to provide the duties and authority of the mayor; to provide for the control of the finances of such city; to provide for an annual budget, its preparation, submission, and adoption and the effect thereof; to create and define the powers, functions, duties and authority of the department of finance and the director of the department of finance; to regulate purchases and contracts of such city; to provide for the terms and effects of succession in government of any city adopting the mayor-council form of government; to make various other provisions for any such city which adopts the mayor-council form of government and for the government thereof; and to provide for the means of abandoning the mayor-council form of government and the adoption by the city of other forms of municipal government in lieu thereof.

Be It Enacted by the Legislature of Alabama:

Article 1. Adoption of Mayor-Council Form of Government-Election and Term of Council.

Section 1.01. Cities to which Act applies—Any city in the State of Alabama, which has a population of not less than 30,000 nor more than 33,000, according to the most recent federal decennial census, may adopt the mayor-council form of government by proceeding in the manner hereinafter in this act provided.

Section 1.02. Petition for election.—The filing of a petition, signed by ten percent (10%) or more of the qualified electors of such city, asking that the proposition of the adoption of the mayor-council form of government for such city be submitted to the qualified voters thereof, with the judge of probate of the county in which such city is located, shall mandatorily require an election to be held as herein provided. Whenever such a petition purporting to be signed by at least ten per cent (10%) of the qualified voters of such city shall be presented to such judge of probate, he shall examine such petition and determine whether or not the same is signed by at least ten per cent (10%) of the qualified voters of such city, and if such petition is signed by the requisite number of voters to require such an election, he shall within fifteen days from the receipt of such petition certify

such fact to the mayor or other chief executive officer of the city for which such election is so petitioned, and the certificate of the judge of probate as to the sufficiency of said petition shall be final.

Section 1.03. Call of election by mayor.—The mayor or other chief executive officer of such city shall immediately upon receipt of such certificate from the probate judge, by proclamation, submit the question of the adoption of the mayor-council form of government for such city, under this Act, at a special election to be held at a time specified in such proclamation, not less than forty days and not more than sixty days after the receipt of said certificate from said probate judge, unless a general or regular election is to be held within 90 days after receipt of such certificate, in which event the special election herein provided for shall be held at the same time as such general or regular election. Should the election not be called by proclamation within 10 days after receipt of his certificate, the judge of probate shall call such election by order at a time specified therein but not less than 40 days and not more than 60 days after the receipt by said mayor or other chief executive officer of the said certificate of the probate judge. It is specifically provided, however, that no election shall be held pursuant to this Act until after May 1, 1972. If a petition for an election is filed prior to such date the election shall be ordered held on June 1, 1972, or on such other date as hereinabove authorized, whichever comes last.

Section 1.04. Second election not called within two years.—If the mayor-council form of government is not adopted at the special election so called, the question of adopting such form of government shall not be re-submitted to the voters of such city for adoption within two years thereafter, and then the question of adopting said form of government may be re-submitted in the manner above provided.

Section 1.05. Proposition submitted; form of ballot.—At such election the proposition to be submitted shall be printed in plain prominent type on ballots separate and distinct from ballots used for any other office or question, and shall read as follows: "Shall the mayor-council form of government, as provided by the Mayor-Council Act of 1971, be adopted for the City of?"

"Yes....."

"No....."

The voter shall mark his ballot with a cross mark before or after the word which expresses his choice. No other proposi-

tion shall be submitted to the voters of such city upon this ballot. If voting machines are used at any voting place in such election, the above proposition may at the discretion of the election commission or other body or official having charge of the conduct or municipal elections in such city, be submitted as a separate proposition on voting machines so used.

Section 1.06. Conduct, canvassing and declaration of result of election.—The election thereupon shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to other city elections in such city. If the majority of the votes shall be “yes” or in favor of such proposition, the provisions of this Act shall thereby be adopted for such city, and the election commission or other canvassing board or official shall transmit to the governor, to the secretary of state, to the judge of probate of the county, and to the chief executive officer of the city, a certificate stating that such proposition was adopted by such city.

Section 1.07. Election of first council and first mayor; term of office.—Immediately upon the adoption of such form of government, the probate judge of the county with whom the petition was filed shall call an election to be held under and to be governed by this Act not less than ninety days nor more than one hundred twenty days after the date of such call, the expense thereof to be paid by the city, for the election at large by the qualified voters of such city of five councilmen, one from each ward in the city, and a mayor. The candidate for the council from each ward receiving a majority of the votes cast in said election shall be elected to the council; and in the event that a candidate from one or more wards should fail to receive such a majority, then and in that event another election shall be held upon the same day of the week four weeks thereafter. Such election shall be called and held in the same mode and manner and under the same rules and regulations as the first election. In the second election the two candidates from each ward for which no councilman was elected in the first election, receiving the highest and next highest number of votes shall be the only candidates, and the candidate from the ward, or each of such wards, receiving the highest number of votes cast in the second election shall be elected; so that in the first and second election there shall be elected five councilmen, one from each ward. Before calling such election the probate judge shall cause the city to be divided into five wards, containing as nearly equal number of inhabitants as possible. The terms of office of candidates so elected shall commence immediately upon their election and qualification; and they shall hold office until the second Tuesday in November of that year ending in an odd number which would give them a term of office most closely

approximating four years and until their successors are elected and qualify. The candidate for mayor receiving the largest number of votes for the office at the first election shall be elected thereto, provided such candidate receives a majority of all votes cast for such office. If at the first election no candidate receives a majority of the votes cast for the office of mayor at such election, then another election shall be held upon the same day of the week four weeks thereafter to be called and held in the same mode and manner and under the same rules and regulations. In the second election there shall be two candidates for the office of mayor; and these candidates shall be the two who received the highest number of votes for said office at the first election.

Section 1.08. The Council.—The councilmen provided for in this article shall be known collectively as the Council of the City of (Name of said city to be inserted) and shall have the powers and duties hereinafter provided. The councilmen first elected shall qualify and take office in the manner hereinafter prescribed on the second Monday following the date the election of all five councilmen is completed, and thereupon such city shall at that time and thereby be and become organized under the mayor-council form of government provided under this Act, and shall thereafter be governed by the provisions of this Act.

Article II. Legal Status; Form of Government; Powers.

Section 2.01. Legal Status.—Any such city which adopts the mayor-council form of government shall continue its existence as a body corporate under the name of "City of" (inserting the name of such city). The word "city" as hereinafter used shall mean and refer to any city which has adopted the mayor-council form of government. The city shall continue as a municipal corporation, within the corporate limits as then established, and as thereafter fixed in the manner prescribed by law, subject to all the duties and obligations then pertaining to or incumbent upon it as a municipal corporation and shall continue to enjoy all the rights, immunities, powers and franchises then enjoyed by it, as well as those that may thereafter or hereinafter be granted to it.

Section 2.02. Form of Government.—The municipal government of any such city proceeding under this Act shall be known as the "mayor-council form of government." Pursuant to the provisions and limitations of this Act and subject to the limitations imposed by the Constitution of Alabama and its laws, all powers of the city shall be vested in the council elected as herein provided and hereinafter referred to as "the council,"

which shall enact ordinances, adopt budgets and determine policies. All powers of the city shall be exercised in the manner prescribed by this Act, or if the manner be not prescribed, then in such manner as may be prescribed by law or by ordinance.

Section 2.03. Powers of city.—The city shall have all the powers granted to municipal corporations and to cities by the Constitution and laws of this State together with all the implied powers necessary to carry into execution all the powers granted. The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require; and, except as prohibited by the Constitution of this State or restricted by this Act, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The emuneration of particular powers by this Act shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which, under the Constitution of this State, it would be competent for this Act specifically to enumerate.

Article III. The Council

Section 3.01. Number, election, term.—The council shall have five members elected from the five wards, respectively, by the voters of the city at large to places thereon numbered from one to five, both inclusive, to correspond to the number of the ward each councilman respectively represents. The regular election at large for the choice of such members of the council shall be held on the second Tuesday in October of the year during which the term of the members of the first council elected under the provisions of Section 1.07 hereof shall expire, and every four years thereafter. The term of office for each numbered place on the council shall be four (4) years. At the first regular election of members of the council under this Act held subsequent to January 1, 1972, and every regular election held each four years thereafter, the candidate or candidates, if any, receiving a majority of the votes cast for such numbered place shall be elected to the council for a four year term. In the event that there is a place on the council for which no candidate received a majority of the votes cast for such place, then and in that event a run-off election shall be held on the third Tuesday thereafter to be called and held in the same mode and manner and under the same rules and regulations provided in Section 1.07 hereof with respect to the election of the first council, except as otherwise provided by this Section 3.01. In the second or run-off

election there shall be two candidates for each numbered place upon the council for which a candidate was not elected at the first election, and these candidates shall be the ones who received in the first election the highest and the second highest number of votes for the place for which they were candidates but were not elected at the first election. The candidate for each numbered place on the council to be filled at said second or run-off election receiving the highest number of votes cast for the place for which he is a candidate in said election shall be elected to the council for a four year term. The council so elected shall take office on the second Tuesday in November following their election. Elections shall, as otherwise herein provided, be governed by the general provisions of law relating to municipal elections of such city.

Section 3.02. Statement of candidacy.—Any person desiring to become a candidate in any election for the office of councilman may become such candidate by filing in the office of the judge of probate of the county in which such city is situated, a statement in writing of such candidacy and an affidavit taken and certified by such judge of probate or by a notary public that such person is duly qualified to hold the office for which he desires to be a candidate. Such statement shall be filed at least 21 days before the day set for such election and shall be in substantially the following form: State of Alabama, County. I, the undersigned, being first duly sworn, depose and say that I am a citizen of the City of in said State and County, and reside at in Ward No. in said City of, that I am a member of the party (or if not a member of a political party then, I am independent candidate), that I desire to become a candidate for the office of Councilman, place number, in said City at the election for said office to be held on the day of October next and that I am duly qualified to hold said office if elected thereto and I hereby request that my name be printed upon the official ballot at said election. Signed; Subscribed and sworn to before me by said on this day of, 19....., and filed in this office for record on said day. Judge of Probate. Said statement shall be accompanied by a qualifying fee in the amount of 50.00, which fee shall be paid over by the judge of probate to the general fund of the city. At every such election all ballots to be used by voters shall be printed and prepared by the official charged by law with the duty of conducting elections and at the expense of said city, and shall contain the names of all candidates directly underneath the words "For members of the council." No name shall appear upon said ballot as a candi-

date for election except the names of such persons as have become candidates according to provisions as above set forth; no ballot shall be used at any such election except the official ballot prepared by the official charged by law with the duty of conducting elections, except that the names of candidates may be suitably placed on voting machines if such machines are used to conduct such election. No primary election shall be held for the nomination of candidates for the office of councilman and candidates shall be nominated only as hereinabove provided.

Section 3.03. Qualification.—Every person who shall be elected or appointed to the office of member of the council, shall, on or before the second Tuesday of November following his election or before the Tuesday following the date of his appointment qualify by making oath that he is eligible for said office and will execute the duties of same according to the best of his knowledge and ability. Said oath may be administered by any person authorized to administer an oath under the laws of Alabama.

Section 3.04. Eligibility.—Councilmen shall be qualified electors of the city and of the ward they respectively represent, at least twenty-five years of age at the time of their election, and shall hold no other public office except that of notary public or member of the National Guard or naval or military reserve. If a councilman shall cease to possess any of these qualifications or shall be convicted of crime involving moral turpitude, his office shall immediately become vacant.

Section 3.05. Compensation.—The council shall receive such salary which shall be effective on such date as the council may by resolution or ordinance prescribe; provided, however, no councilman, other than the president of the council, shall receive a salary in excess of forty-eight hundred dollars (\$4,800) per annum. The council may provide by ordinance or resolution for the office of the president of the council compensation in addition to the compensation such president will be entitled to receive as a councilman, which additional compensation shall not exceed the additional amount of twenty-four hundred dollars (\$2,400) per annum, making the total maximum compensation which a member of the council may receive which serving as president thereof seventy-two hundred dollars (\$7,200) per annum. Such salary shall be payable in monthly installments at the end of each month, said installments to be paid at the same rate for any portion of the month during which each such councilman shall hold office at the rate provided.

Section 3.06 Presiding Officer. The council shall elect an officer of the city who shall have the title of president of the

council and shall preside at meetings of the council. The council shall also elect a president pro tem, who shall act as president of the council during the absence or disability of the president. The terms of office of the president and the president pro tem shall be until the councilmen shall qualify following the next succeeding biennial election. If a vacancy shall occur in the office of president of the council, the council shall elect a successor for the completion of the unexpired term. Both the president of the council and the president pro tem shall be elected from among the councilmen.

Section 3.07. Powers.—All powers of the city, including all powers vested in it by this Act, by the laws, general and local, of the State, and by Title 62 of the Code of Alabama of 1940, as amended, and the determination of all matters of policy, shall be vested in the council. Without limitation of the foregoing, the council shall have power to:

(a) Establish administrative departments and distribute the work of divisions.

(b) Adopt the budget of the city.

(c) Authorize the issuance of bonds or warrants.

(d) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs.

(e) Appoint the members of all boards, commissions or other bodies authorized hereunder or by law. This provision for appointment of members of boards, commissions or other bodies authorized hereunder or by law shall supersede any different provision for appointment of such members contained in any statute or ordinance in effect at the time of adoption by the city of the mayor-council form of government set up by this Act, and shall include power to remove any member of any board, commission or body to the same extent as might be done by the governing body of the city at the time of adoption by the city of the mayor-council form of government set up by this act and to appoint another in his stead. And wherever in any statute in effect at the time of adoption by the city of said mayor-council form of government the chief executive officer of the city is designated to act in any capacity ex-officio, the mayor shall act.

(f) Succeed to all powers, rights and privileges conferred upon the former governing body of the city by statutes in effect at the time of adoption by the city of the mayor-council form of government and not in conflict with this Act.

(g) Levy property and license taxes and local improvement assessments.

Section 3.08. Council not to interfere in appointments or removals.—Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from, office or position by the mayor or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the mayor and neither the council nor any member thereof shall give orders to any subordinate of the mayor, either publicly or privately. Any councilman violating the provisions of this Section, or voting for a resolution or ordinance in violation of this Section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be councilman.

Section 3.09. Vacancies in Council.—Whenever any vacancy in the office of councilman shall occur by reason of death, resignation, removal, or any other cause, the council may, at the next regular or any subsequent meeting of the council, fill the vacancy; provided such appointment is made within thirty days of the occurrence of such vacancy. The council, at their discretion, may call upon the mayor thereof, to call a special election to fill such vacancy, such election to be called not less than thirty and not more than forty-five days from the occurrence of such vacancy; provided, however, if the vacancy occurs within six months prior to the expiration of the term of the numbered place to be filled, then the council may only fill such vacancy by appointment. Notice of election hereunder shall be given at the expense of the city by one publication of at least eighteen days in advance of the same in one or more newspapers published in such city. The method, procedure, and requirements of qualifying, voting upon, and determining the successful candidate shall be the same as is provided herein relative to the election of councilman at regular elections, except that statements of candidacy must be filed at least fifteen days before the date set for such election. The successor to the councilman appointed or chosen at any such election shall qualify for office as soon as practicable thereafter, and shall be clothed with and assume the duties, responsibilities and powers of such office immediately upon such qualification. Such successor, if appointed as hereinabove provided, shall hold office only until the next election of any kind in which the voters of the city to which this Act applies are qualified electors, at which time said unexpired term shall be filled by said electors in accordance with all provisions of law applicable to such city. Provided further, the successor to fill such vacancy, if elected by the electorate of

the city, as hereinabove provided, shall hold office for the unexpired term of his predecessor.

Section 3.10. Creation of new departments or offices; change of duties. — The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Act. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Act, but may not discontinue or assign to any other office, department or agency any function or duly assigned by this Act to a particular office, department or agency.

Section 3.11. City Clerk. — If the city clerk of any city which adopts the mayor-council form of government of such city, and his successor shall be selected and hold office subject to the provisions of such civil service or merit system. If the city clerk of any city which adopts the mayor-council form of government does not hold office subject to any civil service or merit system, the council shall elect the city clerk. The city clerk shall give notice of special or called meetings of the council, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions and shall perform such other duties as shall be required by this Act or by ordinance, and such duties as are imposed by general law of Alabama upon city clerks and as to which other provisions are not made in this Act.

Section 3.12. Induction of council into office; meetings of council.—The first meeting of each newly elected council for induction into office, shall be held at ten o'clock in the morning on the second Tuesday in November next following its election, after which the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once a week. All meetings of the council shall be open to the public.

Section 3.13. Council to be judge of qualifications of its members.—The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

Section 3.14. Rules of procedure; journal.—The council shall determine its own rules and order of business. It shall keep a journal of its proceedings and the journal shall be open to public inspection.

Section 3.15. Meetings, passage of ordinances, etc.—The council shall hold regular public meetings on Tuesday of each

and every week at a regular hour to be fixed by the order of said council from time to time and publicly announced; it may hold such adjourned, called, special or other meetings as the business of the city may require. The president of the council, when present, shall preside at all meetings of said council. Three members of the council shall constitute a quorum for the transaction of any and every power conferred upon said council, and the affirmative vote of at least two members of the council provided such two constitute a majority of those voting shall be sufficient for the passage of any resolution, by-law or ordinance, or the transaction of any business of any sort by the said council or the exercise of any of the powers conferred upon it by the terms of this Act or by law, or which hereafter be conferred upon it. No resolution, by-law or ordinance granting any franchise, appropriating any money for any purpose, providing for any public improvements, any regulation concerning the public health, or of any other general or permanent nature, except the proclamation of quarantine, shall be enacted except at a regular public meeting of said council or an adjournment thereof. Every ordinance introduced at any and every such meeting shall be in writing and read before any vote thereon shall be taken, and the yeas and nays thereon shall be recorded; provided that if the vote of all councilmen present be unanimous, it may be so stated in the journal without recording the yeas and nays. A record of the proceedings of every meeting of the council shall be kept, and every resolution or ordinance passed by the council must be recorded and a record of the proceedings of the meeting shall, when approved by the council, be signed by the president of the council and the city clerk. Such record shall be kept available for inspection by all citizens of such city at all reasonable times. No ordinance of permanent operation shall be passed at the meeting at which it was introduced except by unanimous consent shall be shown by the yea and nay votes entered upon the minutes of said meeting; provided, however, that if all members of the council present vote for the passage of the ordinance and their names are so entered of record as voting in favor thereof, it shall be construed as giving unanimous consent to the action upon such ordinance at the meeting at which it is introduced. Publication of ordinances shall be governed by Alabama Code of 1940, Section 462, as amended, Title 37. Provided all ordinances or resolutions, after having been passed by the council, shall by the clerk be transmitted within forty-eight (48) hours after their passage to the mayor for his consideration, who, if he shall approve thereof, shall sign and return the same to the clerk, who shall publish them, if publication thereof is required, and such ordinances and resolutions shall thereupon become effective and have the force of law. Delivery to the office of the mayor shall constitute delivery to the mayor. An ordinance or resolution may be re-

called from the mayor at any time before it has become a law, or has been acted on by him, by a resolution adopted by a majority of the members elected to the council, in regular or special session. If the mayor shall disapprove of any ordinance or resolution transmitted to him as aforesaid, he shall, within ten (10) days of the time of its passage by the council, return the same to the clerk with his objections in writing, and the clerk shall make report thereof to the next regular meeting of the city council; and if four-fifths of the members elected to the said council shall at said meeting adhere to said ordinance or resolution, notwithstanding said objections, said vote being taken by yeas and nays and spread upon the minutes, then, and not otherwise, said ordinance or resolution shall after publication thereof, if publication is required, have the force of law. If publication of said ordinance or resolution is not required, it shall take effect upon its passage over such veto. The failure of the mayor to return to the city clerk an ordinance or resolution with his veto within ten (10) days after its passage by the council shall operate and have the same effect as an approval of the same, and the city clerk, if publication is required, shall publish the same as is herein provided for the publication of laws and ordinances of said city. And if no publication is required, the ordinance or resolution shall become effective upon the expiration of said ten (10) days. Anything in this section to the contrary notwithstanding, the mayor shall not have the power of veto over appointments of the council, or over any action of the council relating to an investigation as provided for in Section 8.03.

Section 3.16. Granting of franchises.—No resolution or ordinance, granting to any person, firm or corporation any franchise, lease or right to use the streets, public highways, thoroughfares, or public ways of any city organized under the provisions of this Act, either in, under, upon, along, through, or over same shall take effect and be enforced until thirty days after the final enactment of same by the council and publication of said resolution or ordinance in full once a week for three consecutive weeks in some daily newspaper published in said city, which publication shall be made at the expense of the persons, firm or corporation applying for said grant. Pending the passage of any such resolution or ordinance or during the time intervening between its final passage, and the expiration of the thirty days during which publication shall be made as above provided, the legally qualified voters of said city may, by written petition or petitions addressed to said council, object to such grant, and if during such period such written petition or petitions signed by at least five per cent (5%) of the legally qualified voters of the city shall be filed with said council, said council shall forthwith order an election, which shall be

conducted by the official charged with the duty of conducting elections therein, at which election the legally qualified voters of said city shall vote for or against the proposed grant as set forth in the said resolution or ordinance. In the call for said election, the said resolution or ordinance making such grant shall be published at length and in full at the expense of the city in at least two newspapers published in said city by one publication. If a majority of the votes cast at such election shall be against the passage of said resolution or ordinance, then and in those events, said resolution or ordinance shall not become effective nor shall it confer any rights, powers or privileges of any kind; otherwise, said resolution or ordinance and said grant shall thereupon become effective as fully and to the same extent as if said election had not been called or held. If, as the result of said election, said resolution or ordinance shall not become effective, then it shall be the duty of said council, after the results of said election shall be determined, to pass a resolution or ordinance to that effect. No grant of any franchise or lease or right of user, or any other right, in, under, upon, along, through, or over the streets, public highways, thoroughfares or public ways of any such city, shall be made or given nor shall any such rights of any kind whatever be conferred upon any person, firm or corporation, except by resolution or ordinance duly passed by the council at some regular or adjourned regular meeting and published as above provided for in this Section; nor shall any extension or enlargement of any such rights or powers previously granted be made or given except in the manner and subject to all the conditions herein provided for as to the original grant of same. It is expressly provided, however, that the provisions of this Section shall not apply to the grant of side track or switching privileges to any railroad or street car company for the purpose of reaching and affording railway connections, and switch privileges to the owners or users of any industrial plant, store or warehouse; provided further, that said side track or switch shall not extend for a greater distance than one thousand, three hundred twenty feet.

Section 3.17. Codification authorized.—The council may provide at any time it may deem proper, for the revision and codification of its ordinances, by-laws, and permanent resolutions, or for the adoption of a code or codes by ordinance. Such code or codes and the revisions or amendments thereof may relate to the whole system of city by-laws, ordinances and permanent resolutions, or may relate to that portion of such ordinances, by-laws and permanent resolutions which relate to, affect or purport to govern any particular subject or subjects or subdivisions of municipal legislation. The council shall have full power and authority to prescribe the manner in which said code or codes, revisions or amendments thereto, shall be made

public, whether by proclamation of any officer or officers of said city by posting or by publication, one or all, but it shall not be necessary unless so prescribed by the council for such code or codes, revisions or amendments thereto, to be published in a newspaper or newspapers. Nor shall it be necessary that such code or codes, revisions or amendments thereto, be spread at length upon the minutes. The council may prescribe that such code or codes, revisions or amendments thereto may be certified by and filed with the city clerk, or other corresponding officer, in lieu of spreading the same on the minutes; and the council may prescribe the manner in which copies of such code or codes, revisions, or amendments thereto, may be officially certified for use by the inhabitants or by the courts. The council may adopt and provide for the maintenance in a designated office of the city of a comprehensive zone map of the city open for inspection by the public at all reasonable times, and may make such zone map a part of any ordinance by reference thereto in such ordinance and without publication of such zone map in any newspaper. Such zone map need not be in one piece but may for convenience be in sections. A zone map of territory newly added to the city shall be treated as a comprehensive zone map of the city for purposes of application of the provisions of the next preceding sentence.

Section 3.18. Examination of books and publication of accounts.—The council shall each month print in pamphlet form a detailed statement of all receipts and expenses of the city, and a summary of its proceedings during the preceding month, and furnish printed copies thereof to the daily newspapers of the city and to persons who apply therefor. At the end of each year, the council shall cause a full and complete examination of all the books and accounts of the city to be made by a certified public accountant, or by the state department of examiner of public accounts, and shall cause the result of such examination to be published in the manner above provided for publication of statements of monthly expenditures. Such examination shall not be made two years in succession by the same accountant.

Article IV. Mayor.

Section 4.01. The mayor, election, term, qualification.—The first mayor shall be elected at the same election at which the councilmen are elected under the provisions of Section 1.07 of this Act and shall hold office until the second Tuesday in November of that year ending in an odd number which would give him term of office most closely approximating four years and until his successor is elected and qualified. The first mayor shall qualify and take office in the manner hereinafter prescribed on the second Monday following the date the election of all five councilmen is completed or on

the second Monday following the election of such mayor whichever last occurs. The regular election for mayor shall be held on the second Tuesday in October of the year during which the term of the first mayor elected hereunder terminates and every four years thereafter. The mayor elected at any such regular election, shall, on or before the second Tuesday of November following his election qualify by making oath that he is eligible for said office and will execute the duties of same according to the best of his knowledge and ability. Said oath may be administered by any person authorized to administer an oath under the laws of Alabama. At any election for mayor the candidate receiving the highest number of votes for the office shall be elected thereto, provided such candidate receives a majority of all votes cast for such office. If at the first election a majority is not received by any candidate for the office of mayor, then a second election shall be held on the third Tuesday thereafter in the same mode and manner and under the same rules and regulations provided in Section 1.07 hereof with respect to the election of the first mayor.

Section 4.02. Statement of candidacy. Any person desiring to become a candidate at any election for the office of mayor may become such candidate by filing in the office of the judge of probate of the county in which such city is situated, a statement in writing of such candidacy, accompanied by an affidavit taken and certified by such judge of probate or by a notary public that such person is duly qualified to hold the office for which he desires to be a candidate. Such statement shall be filed at least 21 days before the day set for such election and shall be in substantially the following form: "State of Alabama, _____ County. I, the undersigned, being first duly sworn, depose and say that I am a citizen of the City of _____, in said State and County, and reside at _____, in said City of _____, that I am a member of the _____ party (or if not a member of a political party then, I am an independent candidate), that I desire to become a candidate for the office of mayor in said city at the election of said office to be held on the _____ day of October, next and that I am duly qualified to hold said office if elected thereon, and I hereby request that my name be printed upon the official ballot at said election. Signed _____; Subscribed and sworn to before me by said _____, on this _____ day of _____, 19____, and filed in this office for record on said day. _____, Judge of Probate." Said statement shall be accompanied by a qualifying fee in an amount equal to \$300.00 which qualifying fee shall be paid over by the judge of probate to the general fund of the city. At every such election all ballots to be used by voters

shall be printed and prepared by the official charged by law with the duty of conducting elections and at the expense of said city, and shall contain the names of all candidates directly underneath the words "For Mayor". No names shall appear upon said ballot as a candidate for election except the names of such persons as have become candidates according to provisions as above set forth; no ballot shall be used at any such election except the official ballot prepared by the election commission or other body or official charged by law with the duty of conducting elections, except that the names of candidates may be suitably placed on voting machines if such machines are used to conduct such election.

No primary election shall be held for the nomination of candidates for the office of mayor and candidates shall be nominated only as hereinabove provided.

Section 4.03. Eligibility.—The mayor shall be a qualified elector of the city, at least twenty-five years of age at the time of his election and shall hold no other public office.

Section 4.04. Compensation—The mayor shall receive an annual salary of Twenty-Two Thousand Five Hundred Dollars (\$22,500.00), payable in monthly installments at the end of each month, said installments to be paid at the same rate for any portion of the month during which the mayor shall hold office at the rate thus provided.

Section 4.05. Vacancy in office of mayor. Whenever any vacancy in the office of mayor shall occur by reason of death, resignation, removal or any other cause, the president of the council shall assume the duties of the office of mayor effective on the date such vacancy occurs and shall serve as acting mayor until a new mayor is elected and qualified as hereinafter provided. The acting mayor shall receive no compensation, expenses or allowances as a councilman while acting as mayor, but he will receive the same rate of pay and allowances provided for the mayor whose vacated office he fills, and the compensation received for days of service as acting mayor shall not be counted in determining the maximum annual per diem compensation permitted council members. While the president of the council is serving as acting mayor he shall not sit with the council or vote on any matters before the council. The council shall within five (5) days of the occurrence of a vacancy in the office of the mayor call a special election to fill such vacancy, such election to be held on a Tuesday not less than thirty (30) days and not more than forty-five (45) days from the occurrence of such vacancy; provided, however, if a regular or special election is scheduled or required to be held within ninety (90) days after the occurrence of such vacancy but more than thirty

(30) days after such occurrence, then the vacancy in the office of mayor will be filled at such regular or special election. Notice of such election shall be given at the expense of the city by one publication at least eighteen (18) days in advance of the same in one or more newspapers published in such city. The method, procedure and requirements of qualifying, voting upon and determining the successful candidate shall be the same as is provided herein relative to the election of the mayor at regular elections, except that statements of candidacy must be filed at least twenty (20) days before the date set for such election. The successor to the mayor chosen at any such election shall qualify for office as soon as practical thereafter, and shall be clothed with and assume the duties, responsibilities and powers of such office immediately upon such qualification, and shall hold office for the unexpired term of his predecessor and until his successor is elected and qualified.

Section 4.06. The mayor; powers and duties.—The mayor shall be the head of the administrative branch of the city government. He shall not sit with the council nor shall he have a vote in its proceedings and he shall have the power and duties herein conferred. He shall be responsible for the proper administration of all affairs of the city and, subject to the provisions of any civil service or merit system law applicable to such city and except as otherwise provided herein, he shall have power and shall be required to:

(1) Enforce all laws and ordinances;

(2) Appoint and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this Act and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office; provided that he shall not appoint or remove officers and employees of:

(a) any library board of the city;

(b) any board of the city having control over any park, recreation, facility, fair or exhibit;

(c) any municipally-owned public utility, including electric, gas and water systems, while such utility is operating under a board constituted by law or required by the terms of any indenture, mortgage or deed of trust providing for employment by other authority;

(d) any school board of the city;

(e) any planning board or zoning board of the city;

(3) Exercise administrative supervision and control over all departments created by this Act or by law or hereafter

created by the council except those enumerated in subdivisions (a) to (e) inclusive of subsection (2) of this section, and except those otherwise given independent status under this Act.

(4) Keep the council fully advised as to the financial conditions and needs of the city; prepare and submit the budget annually to the council and be responsible for its administration after its adoption; prepare and submit, as of the end of the fiscal year, a complete report on the financial and administrative activities of the city for such year.

(5) Recommend to the council such actions as he may deem desirable.

(6) Prepare and submit to the council such reports as may be required of him.

(7) Perform such other duties as may be prescribed by this Act.

(8) Fix the salaries or compensation of all officers and employees of the city who are appointable by him, subject, however, to the provisions of any civil service or merit law applicable to the city.

Section 4.07. Administrative departments.—There shall be a department of finance, and such other departments as may be established by ordinance upon the recommendation of the mayor.

Section 4.08. Directors of departments.—At the head of each department there shall be a director, who shall be an officer of the city and shall have supervision and control of the department subject to the mayor. Two or more departments may be headed by the same individual, the mayor may head one or more departments, and directors of departments may also serve as chiefs of divisions.

Section 4.09. Departmental divisions.—The work of each department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the mayor. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the mayor among specific divisions thereof, the mayor may establish temporary divisions.

Article V. Budget.

Section 5.01. Fiscal Year.—The fiscal year of the city government shall begin on the first day of December and shall end on the last day of November of each calendar year. Such fiscal year shall also constitute the budget and accounting year. As used in this Act, the term "budget year" shall mean the fiscal

year for which any particular budget is adopted and in which it is administered.

Section 5.02. Submissions of Budgets.—On a day to be fixed by the council but in no case later than the 20th day of July in each year, the mayor shall submit to the council:

(a) a separate current revenue and expense budget for the general operation of the city government, to be known as the “general fund budget”;

(b) a budget for each public utility owned and operated by such city;

(c) a capital budget; and

(d) a budget message.

When submitting the budgets to the council, the mayor shall submit his recommendation of new sources of revenue or manner of increasing existing sources of revenue, sufficient to balance the budgets, if such additional revenue is necessary to accomplish that purpose.

Section 5.03. Preparation of Budgets.—It shall be the duty of the head of each department, and each office or agency supported in whole or in part by the city, to file with the director of finance, at such time as the mayor may prescribe, estimates of revenue and expenditure for that department, office or agency for the ensuing fiscal year. Such estimates shall be submitted on the forms furnished by the director of finance and it shall be the duty of the head of each such department, office or agency, to supply all the information which the director of finance may require to be submitted thereon. The director of finance shall assemble and compile these estimates and supply such additional information relating to the financial transactions of the city as may be required by the mayor in the preparation of the budgets. The mayor shall hold such hearings as he may deem advisable and with the assistance of the director of finance shall review the estimates and other data pertinent to the preparation of the budgets and make such revisions in such estimates as he may deem proper, subject to the laws of the State of Alabama and any municipal ordinance relating to obligatory expenditures for any purpose.

Section 5.04. Scope of General Fund Budget.—The general fund budget shall include only the net amounts estimated to be received from or to be appropriated to each public utility. The general fund budget shall be prepared in accordance with accepted principles of municipal accounting and budgetary procedure and techniques, and shall show:

(a) such portion of the general fund cash surplus as it is estimated will exist, at the end of the current fiscal year, and is proposed to be used for meeting expenditures in the general fund budget for the ensuing year;

(b) an estimate of the receipts from current ad valorem taxes on real estate and tangible personal property during the ensuing fiscal year, assuming that the percentage of the levy collected be no greater than the average percentage of the levy collected in the last three completed tax years;

(c) an estimate of receipts from all other sources of revenue, provided that the estimated receipts from each such source shall not exceed the percentage of estimated revenue in the current fiscal year from the same source, over the amount of the revenue received from the same source, in the last completed fiscal year, unless a law or ordinance under which revenue from any source is derived, has been amended or a new source of revenue has been provided by law or ordinance, in the course of the current year, in which case the estimated receipts from that source may be fixed by the mayor. If additional revenue is to be derived from the State, the amount fixed by the mayor shall not exceed the amount which the proper State official shall certify in writing to be the reasonable expectation of receipts from such source;

(d) a statement to be furnished by the director of finance of the debt service requirements for the ensuing year;

(e) an estimate of the general fund cash deficit, if any, at the end of the current fiscal year and of any other obligations required by law to be budgeted for the ensuing fiscal year;

(f) an estimate of expenditures and appropriations for all other purposes to be met from the general fund in the ensuing fiscal year. All the estimates shall be in detail showing receipts by sources and expenditures by operating units, character and object, so arranged as to show receipts and expenditures as estimated for the current fiscal year and actual receipts and expenditures for the last preceding fiscal year, in comparison with estimated receipts and recommended expenditures for the ensuing fiscal year.

Section 5.05. A Balanced Budget.—In no event shall the expenditures recommended by the mayor in the general fund budget exceed the receipts estimated, taking into account the estimated cash surplus or deficit at the end of the current fiscal year, as provided in the preceding section, unless the mayor shall recommend an increase in or levy of new or increased taxes or licenses within the power of the city to levy and collect in the

ensuing fiscal year, the receipts from which, estimated on the basis of the average experience with the same or similar taxes during the three full tax years last past, will make up the difference. If estimated receipts exceed estimated expenditures, the mayor may recommend revisions in the tax and license ordinances of the city in order to bring the general fund budget into balance. The same balanced budget restrictions shall apply in the adoption of any public utility budget.

Section 5.06. The Budget Message.—The budget message shall contain the recommendations of the mayor concerning the fiscal policy of the city, a description of the important features of the budget plan, an explanation of all salient changes in each budget submitted, as to estimated receipts and recommended expenditures as compared with the current fiscal year and the last preceding fiscal year, and a summary of the proposed budget showing comparisons similar to those required by Section 5.04 above.

Section 5.07. Availability of Budgets for Inspection and Publication of the Budget Message.—The mayor shall cause the budget message to be printed, mimeographed or otherwise reproduced for general distribution at the time of its submission to the council, and sufficient copies of the proposed general fund, public utility and capital budgets to be made, to supply copies to each member of the council and each daily newspaper of general circulation published in the city, and two copies to be deposited in the office of the city clerk where they shall be open to public inspection during regular business hours.

Section 5.08. Publication of Notice of Public Hearing.—At the meeting of the council at which the budget and budget message are submitted, the council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time, not less than seven days after the date of publication, at which the council will hold a public hearing. Publication shall be made at least once in a daily newspaper published and of general circulation in the city. At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, the council shall hold a public hearing on the budget as submitted, at which any citizen of the city shall be given an opportunity to be heard, for or against the estimates of any item thereof.

Section 5.09. Action by the council on the general fund budget.—After the conclusion of the public hearing the council may insert new items or expenditures or may increase, decrease or strike out items of expenditure in the general fund budget, except that no item of expenditure for debt service, or any other

item required to be included by this Act or other provision of law, shall be reduced or stricken out. The council shall not alter the estimates of receipts contained in the said budget except to correct omissions or mathematical errors and it shall not cause the total expenditures as recommended by the mayor to be increased without a public hearing on such increase, which shall be held not less than three days after notice thereof by publication in a newspaper of general circulation published in the city. The council shall in no event adopt a general fund budget in which the total of expenditures exceeds the receipts and available surplus, estimated as provided in Section 5.04 of this Act, unless at the same time it adopts measures for providing additional revenue in the ensuing fiscal year, estimated as provided in Sections 5.02 and 5.05 of this Act, sufficient to make up the difference.

Section 5.10. Adoption of General Fund Budget.—Not later than the 20th day of August of the current fiscal year, the council by a majority vote shall adopt the general fund budget, and such ordinances providing for additional revenue as may be necessary to put the budget in balance. If for any reason the council fails to adopt the general fund budget on or before such day, the general fund budget of the current fiscal year shall be the general fund budget for the ensuing year, until such time as a newly revised budget shall be adopted by the council, and, until such time, shall have full force and effect to the same extent as if the same had been adopted by the council, notwithstanding any thing to the contrary in this Act.

Section 5.11. Effective Date of Budget; Certification; Copies made Available.—Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be certified by the mayor and city clerk and filed in the office of the director of finance. The budget so certified shall be printed, mimeographed or otherwise reproduced and sufficient copies thereof shall be made available for the use of all offices, departments and agencies and for the use of citizens of the city who request a copy.

Section 5.12. Utility Budgets.—Separate budget estimates for any public utilities owned and operated by the city shall be submitted to the director of finance at the same time as the budget estimates of the other departments, and in the form prescribed by the director of finance. The mayor shall prepare and present to the council a budget for the utility operation, itemizing the receipts and expenditures in manner and form as is generally provided for in Section 5.04 of this Act as being applicable to the general fund budget. The action of the council on any utility budget thus submitted shall be governed by the

same provision as provided in this Act with reference to the consideration and adoption of the general fund budget.

Section 5.13. Work Plan and Allotments.—After the current expense budgets have been adopted and before the beginning of the fiscal year the head of each department, office, and agency, shall submit to the mayor in such form as he shall prescribe a work program which shall show the requested allotments of the appropriations for such department, office or agency for the entire fiscal year by monthly or quarterly periods as the mayor may direct. Before the beginning of the fiscal year the mayor shall approve, with such amendments as he shall determine, the allotments for each such department, office, or agency, and shall file the same with the director of finance who shall not authorize any expenditure to be made from any appropriation except on the basis of approved allotments, provided that such allotments shall be in conformity with the salaries established by ordinance, the provisions of any merit or civil service system applicable to such city, the laws of the State of Alabama and any municipal ordinances of such city, relating to obligatory expenditures for any purpose. The aggregate of such allotments shall not exceed the total appropriation available to each such department, office, or agency for the fiscal year. An approved allotment may be revised during the fiscal year in the same manner as the original allotment was made. If at any time during the fiscal year the mayor shall ascertain that the revenue cash receipts of the general fund or any public utility for the year plus any cash surplus available from the preceding year, will be less than the total appropriations to be met from such receipts and cash surplus, he shall reconsider the work programs and allotments of the departments, offices, and agencies, and, subject to the laws of the State of Alabama and any municipal ordinances of the city relating to obligatory expenditures for any purpose, revise the allotments so as to forestall the incurring of a deficit; provided, however, that there shall be no reduction in salaries except by order of the council, or as authorized by law.

Section 5.14. Transfers of Appropriations.—The mayor may at any time authorize, at the request of any department, office, or agency, the transfer of any unencumbered balance or portion thereof in any general fund or utility appropriation from one classification of expenditure to another within the same department, office, or agency, provided that for this purpose the water, gas and electric utilities shall be deemed to be separate departments. At the request of the mayor, the council may by resolution transfer any unencumbered balance or portion thereof in any general fund appropriation from one department, office, or agency to another.

Section 5.15. Additional Appropriations.—Appropriations in addition to those contained in the original general fund budget ordinance, may be made by the council by not less than three affirmative votes, but only on the recommendation of the mayor and only if the director of finance certifies in writing that there is available in the general fund a sum unencumbered and unappropriated sufficient to meet such appropriation. Additional appropriations may be made by the council, by not less than three affirmative votes, from the funds of any utility for the operation of that utility, but only if the director of finance certifies in writing that there is available in the funds of the utility, a sum unencumbered and unappropriated sufficient to meet such appropriation.

Section 5.16. Emergency Appropriations.—At any time in any budget year, the council may, pursuant to this Section, make emergency appropriations to meet a pressing need for public expenditures, for other than a regular or recurring requirement, to protect the public health, safety or welfare. Such appropriation may be made by the council, by not less than three affirmative votes, but only on the recommendation of the mayor. The total amount of all emergency appropriations made in any budget year shall not exceed five per centum of the total general fund operating appropriations made in the budget for that year.

Section 5.17. Appropriations to Lapse.—Any portion of an appropriation remaining unexpended and unencumbered at the close of the fiscal year, shall lapse.

Section 5.18. Capital Budget.—At the same time that he submits the general fund budget, the mayor shall submit to the council a capital improvement program covering all recommended capital improvement projects, for the ensuing fiscal year and for the four fiscal years thereafter, with his recommendations as to the means of financing the improvements proposed for the ensuing fiscal year. The council shall have power to accept with or without amendments or reject the proposed program and proposed means of financing for the ensuing fiscal year; and may from time to time during the fiscal year amend by ordinance adopted by at least three affirmative votes, the program previously adopted by it, or the means of financing the whole or any part thereof or both, provided that the amendment shall have been recommended by the mayor, and further, provided such additional funds are available in the general fund or in any other fund of the city available therefor. The council shall adopt a capital budget prior to the beginning of the fiscal year in which the budget is to take effect. No appropriations for a capital improvement project contained in the capital budget shall lapse until the purpose for which the appropriation was made

shall have been accomplished or abandoned, provided that any project shall be deemed to have been abandoned if three fiscal years lapse without any expenditure from or encumbrance of the appropriation therefor. Any such lapsed appropriation shall be applied to the payment of any indebtedness incurred in financing the project concerned and if there be no such indebtedness shall be available for appropriation.

Section 5.19. Certification of Funds; Penalties for Violation.—No payment shall be made and no obligation incurred by or on behalf of the city except in accordance with an appropriation duly made and no payment shall be made from or obligation incurred against any allotment or appropriation unless the director of finance shall first certify that there is a sufficient unexpended and unencumbered balance in such allotment or appropriation to meet the same; provided that nothing herein shall be taken to prevent the advance authorization of expenditures for small purchases as provided in subsection (e) of section 6.04 of this Act. Every expenditure or obligation authorized or incurred in violation of the provision of this Act shall be void. Every payment made in violation of the provisions of this Act shall be deemed illegal and every official who shall knowingly authorize or make such payment or knowingly take part therein and every person who shall knowingly receive such payment or any part thereof shall be jointly and severally liable to the city for the full amount so paid or received. If any officer, member of the board, or employee of the city, shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this Act or knowingly take part therein such action shall be cause for his removal. Nothing in this section contained, however, shall prevent the making of contracts of lease or for services providing for the payment of funds at a time beyond the fiscal year in which such contracts are made, provided the nature of such transactions will reasonably require the making of such contracts.

Section 5.20. Reserve for Permanent Public Improvements.—The council may by ordinance establish a reserve fund for permanent public improvements and may appropriate thereto any portion of the general fund cash surplus not otherwise appropriated at the close of any fiscal year. Appropriations from the said fund shall be made only to finance improvements included in the capital budget.

Section 5.21. Budget Continuation.—Any officially adopted budget in existence at the time that the council is first organized, shall continue in force and effect during the balance of the city's then fiscal year, or until such time as the mayor may submit to the council and the council adopts, as amended, altered or revised budget for the balance of said fiscal year.

Section 5.22. Budget Summary.—At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, kinds of expenditures itemized according to departments, doing so in such a manner as to present to the taxpayers a simple and clear summary of the detailed estimates of the budget.

Article VI. Department of Finance.

Section 6.01. Director of finance; appointment.—There shall be a department of finance, the head of which shall be the director of finance, who shall be appointed by the mayor, subject to the provisions of any merit or civil service system which is applicable to such city. He shall be the chief financial officer of the city. The chief financial officer of any city which adopts the mayor-council form of government who holds office under any civil service or merit system applicable to such city shall be the first director of finance under the mayor-council form of government.

Section 6.02. Director of finance; qualifications.—The director of finance shall be a person skilled in municipal accounting, taxation and financial control.

Section 6.03. Director of finance; surety bond.—The director of finance shall provide a bond with such surety and in such amount as the council may require by resolution or ordinance. The premium on said bond shall be paid by the city.

Section 6.04. Director of finance; powers and duties.—The director of finance shall have general management and control of the several divisions and units of the department of finance. He shall have charge, subject to the direction and control of the mayor, of the administration of the financial affairs of the city, and to that end shall have authority and be required to:

(a) cooperate with the mayor in compiling estimates for the general fund, public utility, and capital budgets.

(b) supervise and control all encumbrances, expenditures and disbursements to insure that budget appropriations are not exceeded.

(c) prescribe and install systems of accounts for all departments, offices and agencies of the city and provide instructions for their use; and prescribe the form of receipts, vouchers, bills or claims to be used and of accounts to be kept by all departments, offices and agencies of the city.

(d) require daily, or at such other intervals as he may deem expedient, a report of receipts from each of such depart-

ments, offices and agencies, and prescribe the time and the manner in which moneys received by them shall be paid to the office of the director of finance or deposited in a city bank account under his control.

(e) examine all contracts, purchase orders and other documents, except bonds and notes which create financial obligations against the city, and approve the same only upon ascertaining that money has been appropriated and allotted therefor and that an unexpended and unencumbered balance is available in such appropriation and allotment to meet the same, provided that the director of finance may give advance authorization for the expenditure from any appropriation for the purchase of supplies, materials, or equipment of such sum, within the current allotment of such appropriation as he may deem necessary during a period of not to exceed the ensuing three calendar months for the purchase of items not to exceed in cost fifty dollars for any one item, and immediately encumber such appropriation with the amount of such advance authorization, and thereafter, within the period specified, purchase orders for such items, to an aggregate not exceeding such authorization, shall be valid without the prior approval of the director of finance endorsed thereon, but each such purchase order shall be charged against such authorization and no such purchase order, which together with all such purchase orders previously charged within the period specified shall exceed the amount of such authorization, shall be valid.

(f) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depositories as may be designated by resolution or ordinance of the council, or, if no such resolution or ordinance be adopted, by the mayor, subject to the requirements of law as to surety and the payment of interest on deposits. All such interest shall be property of the city and shall be accounted for and credited to the proper account. He shall not be liable for any loss sustained as to Funds of the city that are on deposit in such a designated bank.

(g) Audit and approve before payment, all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and with the advice of the department of law, determine the regularity, legality and correctness of such claims, demands or charges.

(h) Have custody of all investments and invested funds of the city or in its possession in a fiduciary capacity, unless otherwise provided by the Act or by law, ordinance or the terms of any trust, and the safekeeping of all bonds and notes of the city

and the receipt and delivery of city bonds and notes for transfer, registration and exchange.

(i) Have supervision over the preparation of bond ordinances, bonds, advertisements for sale of bonds, preparation of bond prospectuses, conduct of sale of bonds, and delivery of bonds, all subject to provisions of law and municipal ordinances, applicable thereto. Bonds shall be authenticated by the manual signature of the director of finance and shall bear the facsimile signature of the mayor and a facsimile of the seal of the city. Interest coupons transferable by delivery shall be attached to the bond and shall be authenticated by the facsimile signature of the director of finance.

(j) Supervise and direct the placing of all types of insurance carried by the city where the premiums in whole or in part are paid by the city, or the premiums in whole or in part are withheld through the payrolls; the amount of all types of insurance on which the city pays the premiums in whole or in part shall be determined by the council after a recommendation by the mayor.

(k) Submit to the mayor for presentation to the council not later than the twelfth day of each month, a statement showing in reasonable detail the revenues received by the city during the preceding month, the revenues received during that fiscal year up to and through the end of the preceding month, the expenditures made during the preceding month, and the accumulated expenditures made during that fiscal year up to and through the end of the preceding month, together with a comparison of said items with the budget estimates.

(l) Furnish to the head of each department, office and agency of the city a copy of that portion of the statement as required in item (k) of this section, as same is related to his department, office or agency.

(m) Prepare and submit to the mayor at the end of each fiscal year, for the preceding year, a complete financial statement and report of the financial transactions of the city.

(n) Designate, with the approval of the mayor, and subject to the provisions of any merit or civil service system applicable to such city, an employee of the department of finance as deputy director of finance who during the temporary absence or incapacity of the director of finance shall have and perform all the powers and duties conferred or imposed upon the director of finance.

(o) Protect the interest of the city by withholding the payment of any claim or demand by any person, firm or corporation against the city until any indebtedness or other liability

due from such person, firm or corporation shall first have been settled and adjusted.

(p) Collect all special assessments, license fees and other revenues of the city for whose collection the city is responsible and receive all money receivable by the city from the county, state or federal government, or from any court, or from any office, department or agency of the city.

(q) With approval of the mayor to inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.

(r) Supervise through the division of purchases as provided for in Section 6.07 of this Act, and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government.

Section 6.05. When contracts and expenditures prohibited.—No officer, department or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Act. Any contract, verbal or written, made in violation of this Act shall be null and void. Any officer or employee of the city who shall violate this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable as in case of misdemeanor conviction and shall also cease to hold his office or employment. Nothing in this Section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

Section 6.06. Fees shall be paid to city government.—All fees received by any officer or employee of the city, shall belong to the city government and shall be paid daily to the department of finance.

Section 6.07. Division of purchases.—There shall be established in the department of finance a division of purchases, the head of which shall be the city purchasing agent. The purchasing agent, pursuant to rules and regulations established by resolution or ordinance, shall contract for, purchase, store and distribute all supplies, materials and equipment required by any

office, department or agency of the city government. The purchasing agent shall also have power and shall be required to:

1. Establish and enforce specifications with respect to supplies, materials, and equipment required by the city government;
2. Inspect or supervise the inspection of all deliveries of supplies, materials and equipment, and determine their quality, quantity and conformance with specifications;
3. Have charge of such general storerooms and warehouses as the council may provide by resolution or ordinance;
4. Transfer to or between offices, departments or agencies, or sell surplus, obsolete, or unused supplies, material and equipment;
5. Perform such other duties as may be imposed upon him by resolution or ordinance.

Section 6.08. Competitive bidding.—Before the purchasing agent makes any purchase of or contract for supplies, materials or equipment, he shall give ample opportunity for competitive bidding, under such rules and regulations, and with such exceptions, as the council may prescribe by resolution or ordinance, provided, however, that the council shall not except individual contracts, purchases, or sales from the requirement of competitive bidding.

Section 6.09. Contracts for city improvements.—Any city improvement costing more than \$2,000 shall be executed by contract except where such improvement is authorized by the council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. All such contracts for more than \$2,000 shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by resolution or ordinance, provided the mayor shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the council upon the written recommendation of the mayor.

Section 6.10. Accounting control of purchases.—All purchases made and contracts executed by the purchasing agent shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the director of finance certifies that there is to the credit of such office, department or agency, a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual service for which the contract or order is to be issued.

Section 6.11. Borrowing in anticipation of revenues.—In any budget year, in anticipation of the collection or receipt of revenues of the budget year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated “revenue note for the year 19____ (stating the budget year)”. Such notes may be renewed from time to time; but all such notes, together with the renewals thereof, shall mature and be paid not later than the end of the fiscal year after the budget year in which the original notes have been issued. Such borrowing shall be subject to any limitation on amount provided by statute.

Section 6.12. Borrowing to meet emergency appropriations.—In the absence of unappropriated available revenues to meet emergency appropriations under the the provisions of Section 5.16, the council may by resolution authorize the issuance of notes, each of which shall be designated “emergency note” and may be renewed from time to time, but all such notes of any fiscal year and any renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made.

Section 6.13. Notes redeemable prior to maturity.—No notes shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

Section 6.14. Sale of notes; report of sale.—All notes issued pursuant to this Act may be sold at not less than par and accrued interest at private sale without previous advertisement.

Article VII. Succession in Government.

Section 7.01. Rights of officers and employees preserved.—Nothing in this Act contained, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the city or of any office, department or agency existing at the time when this Act shall take effect, or any provision of law in force at the time when the mayor-council form of government shall be adopted and not inconsistent with the provisions of this Act, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city or any office, department or agency thereof.

Section 7.02. Continuance of present officers.—All persons holding administrative office at the time the mayor-council form of government is adopted shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such

duties or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department or agency of the city by the laws of the State shall, if such office, department or agency, be abolished by this Act, or under its authority, be thereafter exercised and discharged by the office, department or agency designated by the council unless otherwise provided herein.

Section 7.03. Status of officers and employees holding positions when the mayor-council form of government is adopted.—Any person holding an office or position in the classified service of the city under any civil service or merit system applicable to the city when the mayor-council form of government shall be adopted shall be continued as such officer or employee in the classified service of the city under the mayor-council form of government and with the same status, rights and privileges and subject to the same conditions under such applicable civil service or merit system as if the mayor-council form of government had not been adopted.

Section 7.04. Transfer of records and property.—All records, property and equipment whatsoever of any office, department or agency or part thereof, all the powers and duties of which are assigned to any other office, department or agency by this Act, shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned. If part of the powers and duties of any office, department or agency or part thereof are by this Act assigned to another office, department or agency, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department or agency to which such powers and duties are so assigned.

Section 7.05. Continuity of offices, departments or agencies.—Any office, department or agency provided for in this Act with a name or with powers and duties the same or substantially the same as those of an office, department or agency heretofore existing shall be deemed to be a continuation of such office, department or agency and, until otherwise provided, shall exercise its powers and duties in continuation of their exercise by the office, department or agency by which the same were heretofore exercised and, until otherwise provided, shall have power to continue any business, proceeding or other matter within the scope of its regular powers and duties commenced by an office, department or agency by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to such a formerly existing office, department or agency, shall, so far as not inconsistent with the provisions of this Act, apply to such office, department or agency provided for by this Act.

Section 7.06. Continuance of contracts and public improvements.—All contracts entered into by the city, or for its benefit, prior to the adoption by such city of the mayor-council form of government, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws existing at the time of the adoption of the mayor-council form of government may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws.

Section 7.07. Pending actions and proceedings.—No action or proceeding, civil or criminal, pending at the time of the adoption of the mayor-council form of government, brought by or against the city or any office, department or agency or officer thereof, shall be affected or abated by the adoption of the mayor-council form of government or by anything contained in this Act; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any office, department or agency or officer, party thereto, may by or under this Act be assigned or transferred to another office, department or agency or officer, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Act.

Section 7.08. Pension and Relief Funds.—All laws and parts of laws relating to pension, retirement and relief funds for policemen, firemen and other employees of the city, contained in the general or local laws of the State or in Title 62 of the Code of Alabama, 1940, as amended, as the same may apply and be in effect with respect to any city at the time when such city shall elect to be governed by the provisions of this Act, shall continue in full force and effect, and without interruption or change as to any rights which have been acquired thereunder, after adoption of the mayor-council form of government by such city.

Section 7.09. Park, play ground and fairground authority.—All laws and parts of laws relating to establishment of an authority for fairgrounds, parks, exhibits, exhibitions and other installations, facilities and places for the amusement, entertainment, recreation and cultural development of the citizens of a city, and for the powers, authority, mode of financing and conduct of the same, contained in the general or local laws of the State or in Title 62 of the Code of Alabama, 1940, as amended, as the same may apply and be in effect with respect to any city at the time when such city shall elect to be governed by the provisions of this Act, shall continue in full force and effect, and without interruption or change as to the establishment or con-

duct of any authority created thereunder, after adoption of the mayor-council form of government by such city.

Section 7.10. When provisions take effect.—For the purpose of nominating and electing members of the council and the mayor, the provisions of this Act shall become applicable to any city adopting the mayor-council form of government upon the filing of the certificate of adoption by the judge of probate with the mayor or other chief executive office of the city as provided for in Section 1.06 hereof. For all other purposes the provisions of this Act shall become applicable to said city at the time when the first council of such city elected under the provisions hereof takes office and qualifies.

Section 7.11. Continuance of ordinances and resolutions.—All ordinances and resolutions of the city in effect at the time of adoption by the city of the mayor-council form of government herein set up shall continue in effect unless and until changed or repealed by the council.

Article VIII. General Provisions.

Section 8.01. Removal of officers and employees.—Subject to the provisions of any civil service or merit system applicable to the city, an officer or employee to whom the mayor, or a head of any office, department or agency, may appoint a successor, may be removed by the mayor or other appointing officer at any time, and the decision of the mayor, or other appointing officer, shall be subject to appeals therefrom, if any, provided by applicable law.

Section 8.02. Right of mayor and other officers in council.—The mayor, the heads of all departments, and such other officers of the city as may be designated by the council, shall be entitled to attend meetings of the council, but shall have no vote therein. The mayor shall have the right to take part in the discussion of all matters coming before the council, and the directors and other officers shall be entitled to take part in all discussions of the council relating to their respective offices, departments or agencies.

Section 8.03. Investigations by council or mayor.—The council, the mayor, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, agency or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this Section shall constitute a

misdeemeanor and shall be punishable by a fine not to exceed \$100.00 or by imprisonment not to exceed six months, or both.

Section 8.04. Contracts extending beyond one year.—No contract involving the payment of money out of the appropriation of more than one year shall be made for a period of more than five years, nor shall any such contract be valid unless made or approved by resolution or ordinance.

Section 8.05. Publicity of records.—All records and accounts of every office, department or agency of the city shall be open to inspection by any citizen, any representative of a citizens' organization or any representative of a citizens' organization or any representative of the press at all reasonable times and under reasonable regulations established by the mayor, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

Section 8.06. Officers and employees not to be privately interested in city's contracts.—No member of the council, officer or employee elected or appointed shall be interested, directly or indirectly, in any contract for work or material, or the profits thereof, or services to be furnished or performed for the city, and no such member of the council, officer or employee shall be interested, directly or indirectly, in any contract for work or material, or the profits thereof, or services to be furnished or performed for any person, firm or corporation operating interurban railway, street railway, gas works, electric light or power plant, heating plant, telegraph line or telephone exchange within the territorial limits of said city. No such member of the council, officer or employee of such city shall be interested in or an employee or attorney of any corporation operating any public service utility within said city. No such member of the council, officer or employee shall accept or receive, directly or indirectly, from any person, firm or corporation operating within the territorial limits of said city any interurban railway, railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, or telephone exchange, or other business using or operating under a public franchise, any frank, free pass, free ticket or free service, or accept or receive, directly or indirectly, from any such person, firm or corporation, any gift or other thing of value, or any service upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor, and upon conviction thereof, the guilty person shall be punished by a fine of not less than one hundred nor more than three hundred dollars, and may be imprisoned in the county jail for not more than ninety days. Every such contract or agreement shall be voidable by the mayor or the council. Such prohibition of free

transportation shall not apply to policemen or firemen in uniform nor to policemen in the discharge of their duty; nor shall service to city officials in their official capacity heretofore provided by any franchise or ordinance be affected by this section.

Section 8.07. Official bonds.—The director of finance, and such other officers or employees as the council may by general ordinance require so to do, shall give bond in such amount and with such surety as may be approved by the council. The premiums on such bonds shall be paid by the city.

Section 8.08. Oath of office.—Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk:

“I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Alabama, that I will, in all respects, observe the provisions of the ordinances of the city of _____, and will faithfully discharge the duties of the office of _____.

Article IX. Abandonment of Mayor-Council Form of Government.

Section 9.01. Abandonment of the mayor-council plan.—No city may change from the mayor-council form of government within two years after the adoption thereof. At the end of such period, or at any time thereafter, the city may change its form of municipal government, either to:

(a) The form of municipal government provided by Act Number 404 of the 1953 session of the Legislature of Alabama.

(b) One of the commission forms of municipal government provided by Title 37, Alabama Code of 1940, as amended and supplemented.

Section 9.02. Petition for change of form of government.—Such change shall, however, first be initiated by petition and submitted to a vote of the qualified electors at an election and shall receive at such election a majority of the votes “yes” or in favor thereof in the same manner and subject to the same requirements as provided in Sections 1.02 to 1.05 of this Act except that the proposition on the ballot shall be changed to reflect the proposed form of municipal government to be submitted to the vote of the qualified electors. The officers and members of the governing body of such newly adopted form of municipal government shall be elected as soon as may be under the provisions of law applicable thereto; and upon their election and qualification for office the term of office of all members of

the council under the mayor-council form of government shall terminate.

Section 9.03. No election on change more often than two years.—No election on the abandonment of the mayor-council form of government shall be held within two years after any other election thereon.

Article X. General Statutory Provisions.

Section 10.01. Effect of this Act on existing law.—All laws and parts of laws, general, local or special, relating to or affecting the city, its powers, functions, duties and property, in force when this Act shall take effect, are hereby continued in effect; but all such laws relating to the exercise of powers, functions and duties by the commission or council-manager or some other form of government shall be superseded to the extent that the same are inconsistent with the provisions of this Act.

Section 10.02. Separability clause.—If any section or part of section of this Act shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Act nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 10.03. Short title.—This Act shall be known and may be cited as the "Mayor-Council Act of 1971."

Section 10.04. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 2:38 P.M.

Act No. 418

S. 387—Lybrand

AN ACT

To provide that in any election held for the purpose of authorizing a change in the form of government of any city with a population of not less than 30,000 nor more than 33,000, according to the most recent federal decennial census the electorate of such city shall be entitled to choose at such election between the Commission form of Government, the Mayor Council form of Government and the Council Manager form of Government; To provide for the ballots to be used in any such election,

the conduct thereof, the canvass of the vote, and the declaration and certification of the result.

Be It Enacted by the Legislature of Alabama:

Section 1. In any election held under the provisions of any act heretofore or hereafter adopted for the purpose of authorizing a change in the form of government of any city with a population of not less than 30,000 nor more than 33,000 according to the most recent federal decennial census, the electorate of such city shall be entitled to choose at such election between the Commission form of government, the Mayor Council form of government and the Council Manager form of government.

Section 2. In any such election the provisions of any law or act to the contrary notwithstanding, the proposition to be submitted to the voters shall be printed in plain, prominent type on ballots separate and distinct from ballots for any office or question, and shall read as follows:

"Shall the Commission form of government be adopted (or retained) for the City of _____? Yes_____."

"Shall the Mayor Council form of government, as provided by the Mayor Council Act of 1971, be adopted (or retained) for the City of _____? Yes_____."

"Shall the Council Manager form of government, as provided by the Council Manager Act of 1953, be adopted (or retained) for the City of _____? Yes_____."

The voter shall mark his ballot with a cross mark before or after the word which expresses his choice. The voter shall express his choice as to one form of government only and no ballot shall be legal which is marked for more than one choice. No other proposition shall be submitted to the voters of such city upon this ballot. If voting machines are used at any voting place in such election, the above propositions may at the discretion of the election commission or other body or official having charge of the conduct of municipal elections in such city be submitted as separate propositions on voting machines so used.

Section 3. Any such election shall be conducted, the vote canvassed and the result declared in the same manner as provided by law in respect to other city elections in such city, and only qualified electors of such city shall vote thereat. If the majority of all votes cast in such election shall be in favor of the adoption or the retention of any one of said forms of government, then such form of government shall be adopted or retained as the case may be by such city, and the election commission or other canvassing board or official shall transmit to the Governor, to the Secretary of State, to the Judge of Probate

of the County, and to the Chief Executive Officer of the city, a certificate stating that such proposition was adopted by such city.

Section 4. If at any such election no proposition received a majority of all votes cast at such election then a second election shall be held on the same day two weeks later at which election only the two propositions receiving the highest number of votes at the first election shall be placed on the ballot. Such second election shall be conducted, the vote canvassed, the result declared and certificates transmitted as provided herein for the first election.

Section 5. If the form of government receiving a majority of the votes at any such election is the form of government under which such city is governed at the time of such election, then such city shall continue thereunder. If the form of government receiving a majority of the votes at any such election is a form of government other than that under which such city is governed at the time of such election, then such form of government shall become the government of such city in accordance with the law or laws applicable to the adoption of such form of government.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 2:39 P.M.



Act No. 419

S. 404—Shelby

AN ACT

To provide additional compensation for the official Court reporters of all judicial circuits composed of only one county having a population of not less than 110,000 nor more than 150,000, according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other compensation provided by law, the official court reporters for all judicial circuits composed of only one county which has a population of not less than 110,000 nor more than 150,000, according to the most recent federal decennial census, shall receive as additional compensation the sum of two thousand dollars per annum which shall be payable in equal monthly installments out of the general fund of the county composing the circuit.

Section 2. This Act is cumulative.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 2:40 P.M.

Act No. 420

S. 519—Edington, Noonan, Pelham
AN ACT

To repeal Act No. 356, H. 627, approved August 30, 1963, entitled, "An Act relating to powers of cities having populations of not less than 200,000 and not more than 300,000, according to the last or any subsequent Federal Decennial Census; authorizing the governing bodies of such cities to adopt ordinances, which protect the historical architectural character of the city, including designating historic districts, creating certain agencies to promote the preservation of such districts, which are located or are to be located in the designated historic districts, and adopting other provisions necessary to effect the purposes of this Act, "(Acts of Alabama 1963, vol. 2, p. 855)"; and to repeal the two Acts amending the above Act viz. Act No. 613, H. 1145, approved August 30, 1965, (Acts of Alabama, Regular Session 1965, vol. 2, p. 1127), and Act No. 83, H. 140, approved September 30, 1965, (Acts of Alabama, 2nd Special Session 1965, vol. 1, p. 113).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 356, H. 627, approved August 30, 1963, entitled, "An Act relating to powers of cities having populations of not less than 200,000 nor more than 300,000 according to the last or any subsequent Federal Decennial Census; authorizing the governing bodies of such cities to adopt ordinances, which protect the historic architectural character of the city, including designating historic districts, creating agencies to promote the preservation of such districts, which are located or are to be located in the designated historic districts, and adopting other provisions necessary to effect the purposes of this Act, "Acts of Alabama 1963, vol. 2, p. 855; are hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 2:41 P.M.

Act No. 421

S. 520—Edington, Noonan, Pelham
AN ACT

Relating to the powers of cities having populations of not less than 175,000 nor more than 275,000 according to the last or any subsequent federal decennial census; authorizing the governing bodies of such cities to adopt ordinances to permit certain commissions for the preservation and protection of the historic architectural character of the city and the promotion of historic districts as tourist attractions, to provide outdoor dining facilities in connection with such promotion.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of any city having a population of not less than 175,000 nor more than 275,000 according to the last or any subsequent federal decennial census, may adopt ordinances to protect the historic architectural character of the city in the manner hereinafter prescribed.

Section 2. The city governing body may designate as a Historic District any section of the city containing buildings designated by the Historic American Buildings Survey or any other recognized historic buildings survey, and having an overall atmosphere of architectural and historic distinction.

Section 3. An historic development commission with the following membership, duties and powers may be created by the city governing body.

(A) Said commission shall be composed of no less than eleven members who shall be selected by the city governing body in such a manner as to serve overlapping terms. Except for the first members, their terms shall be four years.

(B) The commission shall operate under a constitution as adopted by the commission and approved by the city governing body.

(C) The commission shall have as its purposes (1) the preservation and protection of buildings of historic and architectural value in the historic districts, as defined in Section 2 of this Act, and the maintenance of the distinctive character of these districts, (2) the fostering and encouraging of the preservation, restoration, and utilization of buildings of historic and architectural value in the historic districts, (3) the development and promotion of historic districts, as major tourist attractions of historic and economic value and in connection therewith shall be authorized to provide for patio type restaurants with outdoor dining facilities. Provided, however, all such restaurants and facilities shall in every other respect be subject to all state, county, and municipal regulations respecting food handling establishments, adopted pursuant to Section 85, Title 22, Code of Alabama 1940, as amended. Provided further that nothing in this Act shall be construed so as to permit any city or commission created pursuant to the provisions of this Act to enter into the restaurant business.

(D) Said commission shall have the power and authority in addition to all powers conferred on it by the general law, (1) to purchase, sell, contract to purchase, contract to sell, own, encumber, lease, mortgage, and insure real and personal property of all kinds and descriptions; (2) to request, solicit and accept gifts, donations, pledges, fees, bequests, devises, loans or appropriations from any source whatsoever; (3) to set up at such lawful depository or depositories in the City of Mobile as it may select, a "REVOLVING FUND FOR HISTORIC DEVELOPMENT" which shall be composed of the monies which may come into its hands from any source whatsoever and which shall be used for the furtherance of the objectives and purposes of the commission, and (4) the commission may employ such professional, office, technical and other personnel as may be necessary or desirable for the carrying out in the most efficient manner of the purposes of such commission.

(E) The commission shall constitute a non-profit governmental agency whose funds shall be used exclusively for public purposes. Such commission shall have a tax exempt status, and the properties of the commission and the income therefrom, together with all leases, agreements and contracts made by it, shall be forever exempt from any and all taxation by the State of Alabama and any political subdivision thereof, including, but not limited to, income, admission, amusement, excise and ad valorem taxes.

(F) It shall be the duty of the commission to exercise such powers as the commission shall deem necessary and fitting to carry out the above stated purposes."

Section 4. An architectural review board with the following membership, duties and powers may be created by the city governing body.

(A) Said board shall be composed of five members selected by the city governing body to serve overlapping terms. Except for the first members, their terms shall be five years. (B) The board shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. Meetings shall be held at regular intervals, but at least monthly. The board may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other civil employees of the city. The board may also contract with architects and other professional and technical consultants for such services as it may require. The expenditures of the board, exclusive of gifts or grants, shall be within the amounts appropriated for the purpose by the city governing body, which shall provide the funds, equipment and accommodations neces-

sary for the board's work. (c) It shall be the duty of the board to approve or disapprove plans for buildings to be erected or renovated which are located or are to be located within the historic districts.

Section 5. The city governing body shall prescribe the procedure for the review of building plans for any building to be erected or renovated which is located or is to be located in the designated historic districts, including rules governing decisions of the architectural review board and the procedure for appeal from decisions of the board.

Section 6. The city governing body may adopt such other regulations as are necessary to effect the purposes of this Act.

Section 7. All laws or parts of laws which conflict with this Act are repealed.

Section 8. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 9. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 2:42 P.M.

Act No. 422

S. 521—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 126, H. 158, Second Special Session 1963 (Acts 1963, p. 314), which provides for advisory referendum elections in certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 126, H. 158, Second Special Session 1963 (Acts 1963, p. 314) is hereby amended to read as follows:

“An Act to provide for advisory referendum elections in cities having a population of 175,000 - 275,000.”

Section 2. Section 1 of Act No. 126, H. 158, Second Special Session 1963 (Acts 1963, p. 314), is hereby amended to read as follows:

“Section 1. The council or commission or other like legislative body of a city having a population of not less than 175,000 nor more than 275,000, according to the most recent federal de-

cennial census, may call and provide for holding an election to ascertain the sentiment of the voters of the city concerning any public question or proposition on which such body may adopt ordinances or enact municipal legislation. Any question or proposition thus presented shall be stated in the form of a question on the ballot in language which is susceptible to a 'Yes' or 'No' answer and in a manner to permit a voter to express his preference for or against such question or proposition by voting 'Yes' or 'No' on voting machines used in such cities."

Section 3. The Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Approved August 26, 1971.

Time: 2:43 P.M.

Act No. 423

S. 522—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 435, H. 402, Special Session 1966 (Acts 1966, p. 580), which provide for a retirement pension for certain elected public officials in certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 435, H. 402, Special Session 1966 (Acts 1966, p. 580), is hereby amended to read as follows:

"An Act to provide for a retirement pension for certain elected public officials of any municipality having a population of not less than 175,000 nor more than 275,000 according to the most recent federal decennial census; to prescribe the eligibility requirements for such pension and the amount, method and source of payment thereof."

Section 2. Section 1 of Act No. 435, H. 402, Special Session 1966 (Acts 1966, p. 580), is hereby amended to read as follows:

"Section 1. In any municipality in this state having a population of not less than 175,000 nor more than 275,000 according to the most recent federal decennial census, any elected public official of such municipality or any former elected public official of such municipality, who has served as an elected official of such municipality for a total of twenty years or more and who has obtained the age of sixty-five years and has retired from

such service or if he shall have heretofore retired from such service, shall, upon the effective date of this Act, receive a pension from the municipality, which pension shall amount annually to fifty percent of the average compensation in such official's three highest-paid years while in elective office in the municipality."

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Approved August 26, 1971.

Time: 2:44 P.M.

Act No. 424

S. 523—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 749, S. 570, Regular Session 1967 (Acts 1967, p. 1603), which authorizes and provides for the payment of supplemental retirement benefits to certain municipal employees in certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 749, S. 570, Regular Session 1967 (Acts 1967, p. 1603), is hereby amended to read as follows:

"An Act to authorize and provide for the payment of supplemental retirement benefits to certain municipal employees in cities in this State having populations of not less than 175,000 nor more than 275,000, according to the last or any subsequent federal decennial census; to restrict the application of Act No. 773, S. 621, Regular Session 1951 (Acts 1951, p. 1342), as amended, which established a pension and relief system for municipal employees."

Section 2. Section 1 of said Act No. 749, S. 570, Regular Session 1967 (Acts 1967, p. 1603), is hereby amended to read as follows:

Section 1. This act shall apply in all cities in this State which have a population of not less than 175,000 nor more than 275,000 according to the last or any subsequent federal decennial census.

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Approved August 26, 1971.

Time: 2:45 P.M.

Act No. 425

S. 524—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 613, H. 1179, Regular Session, 1961 (Acts 1961, p. 729), which authorizes certain cities classified on a population basis to make payments to widows and children of former deceased employees of such cities.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 613, H. 1179, Regular Session, 1961 (Acts 1961, p. 729), is hereby amended to read as follows:

“An Act to apply in all cities of this state having populations of not less than 175,000 and not more than 275,000, according to the 1960 or any subsequent federal decennial census; to authorize payment to the widows and children of certain decedents who had formerly been employees of such cities, or departments, or agencies thereof, of certain refunds of contributions made by such decedent to a pension, relief, or retirement fund.

Section 2. Section 1 of said Act No. 613, H. 1179, Regular Session, 1961 (Acts 1961, p. 729), is hereby amended to read as follows:

“Section 1. The provisions of this Act shall apply only in cities of this state which have populations of not less than 175,000 nor more than 275,000, according to the 1960 or any subsequent federal decennial census.

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Approved August 26, 1971.

Time: 2:46 P.M.

Act No. 426

S. 525—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 287, H. 193, Special Session 1965 (Acts 1965, p. 395), as last amended, which provides for compensation of members of the boards of commissioners and imposes a qualifying fee upon persons who desire to become candidates for the office of commissioner of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 287, H. 193, Special Session 1965 (Acts 1965, p. 395), is hereby amended to read as follows:

“An Act relating to cities having populations of not less than 175,000 nor more than 275,000, according to the last or any subsequent federal decennial census; affecting and regulating the commission form of government which now exists or which may hereafter exist in any such cities; prescribing the compensation of the members of the boards of commissioners; prescribing and imposing a qualifying fee upon persons who desire to become candidates for the office of commissioner.”

Section 2. Section 1 of said Act No. 287, H. 193, Special Session 1965 (Acts 1965, p. 395), is hereby amended to read as follows:

“Section 1. This act shall apply to all cities in this state having populations of not less than 175,000 nor more than 275,000, according to the last or any subsequent federal decennial census, which operate under the commission form of government.”

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Approved August 26, 1971.

Time: 2:47 P.M.

Act No. 427

S. 526—Edington, Noonan, Pelham
AN ACT

To amend the Title and Section 1 of Act No. 716, H. 1012, Regular Session, 1967 (Acts 1967, p. 1553), which provides civil service or merit system status for Chiefs of Police of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 716, H. 1012, Regular Session, 1967 (Acts 1967, p. 1553), is hereby amended to read as follows:

"An Act relating to cities having populations of not less than 40,000 nor more than 50,000; providing civil service or merit system status for Chiefs of Police of such cities."

Section 2. Section 1 of said Act No. 716, H. 1012, Regular Session, 1967 (Acts 1967, p. 1553, is hereby amended to read as follows:

"Section 1. The Chiefs of Police Departments in all cities having populations of not less than 40,000 nor more than 50,000, according to the most recent Federal Decennial Census, shall be included in the classified service of the city as provided by any civil service or merit system regulations governing the appointment, tenure, activities, department and compensation of other municipal employees within any such city. Provided, however, that any person holding such position at the time of this act's passage, who shall have held this position for at least one year prior to its enactment shall automatically be placed under civil service."

Section 3. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 2:48 P.M.

Act No. 428

S. 527—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 502, S. 445, Regular Session 1963 (Acts 1963, p. 1084), which provides for the reduction of the corporate limits of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 502, S. 445, Regular Session 1963 (Acts 1963, p. 1084, is hereby amended to read as follows:

"An Act providing further for the reduction of the corporate limits of cities having populations of not less than 175,000 nor more than 275,000, according to the 1960 or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 502, S. 445, Regular Session 1963 (Acts 1963, p. 1084), is hereby amended to read as follows:

"Section 1. This Act shall apply only to cities having populations of not less than 175,000 nor more than 275,000,

according to the 1960 or any subsequent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Approved August 26, 1971.

Time: 2:49 P.M.

Act No. 429

S. 528—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 823, S. 138, Regular Session 1965 (Acts 1965, p. 1539), which further provide for the form of government of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 823, S. 138, Regular Session 1965 (Acts 1965, p. 1539), is hereby amended to read as follows:

"An Act to provide further for the form of government of cities having populations of not less than 175,000 nor more than 275,000, according to the most recent federal decennial census, regulating the appointment and election, compensation, powers, duties, and authority of municipal officers and employees, and authorizing abandonment of the existing form of government and adoption of a mayor-council form of government."

Section 2. Section 1 of Act No. 823, S. 138, Regular Session 1965 (Acts 1965, p. 1539), is hereby amended to read as follows:

"This Act shall apply to all cities having populations of not less than 175,000 nor more than 275,000, according to the most recent federal decennial census, which may now or hereafter operate under a commission form of government.

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Approved August 26, 1971.

Time: 2:50 P.M.

Act No. 430

S. 529—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 39, H. 67, Special Session 1962 (Acts 1962, p. 50), which provides for the appointment of an administrative assistant in certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 39, H. 67, Special Session 1962 (Acts 1962, p. 50), is hereby amended to read as follows:

“An Act relating to cities having a population of not less than 175,000 nor more than 275,000, according to the last or any subsequent federal decennial census; providing for the appointment of an administrative assistant by the members of the city commission, council, or like governing body of any such city.”

Section 2. Section 1 of said Act No. 39, H. 67, Special Session 1962 (Acts 1962, p. 50), is hereby amended to read as follows:

“Section 1. The city commission, council, or like governing body of any city having a population of not less than 175,000 nor more than 275,000 according to the last or any subsequent federal decennial census, shall have the power and authority to appoint an administrative assistant upon such terms and conditions as such governing body may provide; provided, however, that the salary of such administrative assistant shall not exceed \$8,400.00 per annum. Such salary shall be paid from the city treasury in equal monthly installments.”

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws which conflict with this Act are repealed.

Approved August 26, 1971.

Time: 2:51 P.M.

Act No. 431

S. 530—Edington, Noonan, Pelham

AN ACT

Further amending Section 781, Title 37, Code of Alabama 1940, as amended; prescribing certain qualifications for membership of the board of adjustment in cities of not less than 175,000 nor more than 275,000 population according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 781, Title 37, Code of Alabama 1940, as amended is further amended to read as follows:

"Section 781. In availing itself of the powers conferred by this article, the legislative body of any incorporated city or town may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this article, may provide that the said board of adjustment shall in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purposes and interests and in accordance with general or specific rules therein contained. The board of adjustment shall consist of five members, each to be appointed for a term of three years except that in the first instance one member shall be appointed for a term of three years, two for a term of two years and two for a term of one year. Thereafter each member appointed shall serve for a term of three years or until his successor is duly appointed. Provided that in all cities having a population of not less than 175,000 nor more than 275,000 according to the most recent federal decennial census all members of the board, including any alternate member herein provided for, shall be bona fide residents and qualified electors of such cities. Provided further, that the members of boards of adjustment heretofore created shall serve out their terms and thereafter the members of such boards shall be appointed in the manner prescribed herein for boards created after the effective date of this Act. In addition to the five regular members herein provided for two supernumerary members shall be appointed to serve on such board at the call of the chairman, only in the absence of regular members, and while so serving have and exercise the power and authority of regular members. Such supernumerary members shall be appointed to serve for three year terms and shall be eligible for reappointment. Appointed members may be removable for cause by appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Provided, that in cities having populations of not less than 175,000 nor more than 275,000 the board shall meet regularly once a month, on a day determined by the board. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question,

or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions. All of which shall immediately be filed in the office of the board and shall be a public record. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney. The board of adjustment shall have the following powers: To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto. To hear and decide special exceptions to the terms of the terms of the ordinance upon which such board is required to pass under such ordinance. To authorize upon appeal in specific cases such variance from the terms of the ordinance. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. In exercising the above mentioned powers such board may in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and, to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of 4 members of the board shall be necessary to reverse any order, requirement, de-

cision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 2:52 P.M.

Act No. 432

S. 531—Edington, Noonan, Pelham
AN ACT

To amend the Title and Section 1 of Act No. 682, H. 937, Regular Session, 1967 (Acts 1967, p. 1508), which provides for a retirement pension for certain elected public officials of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 682, H. 937, Regular Session, 1967 (Acts 1967, p. 1508), is hereby amended to read as follows:

"An Act to provide for a retirement pension for certain elected public officials of any municipality having a population of not less than 175,000 nor more than 275,000 according to the most recent federal decennial census; to prescribe the eligibility requirements for such pension and the amount, method, and source of payment thereof."

Section 2. Section 1 of said Act No. 682, H. 937, Regular Session, 1967 (Acts 1967, p. 1508), is hereby amended to read as follows:

"Section 1. In any municipality in this state having a population of not less than 175,000 nor more than 275,000 according to the most recent Federal Decennial Census, any elected public official of such municipality, or any former elected public official of such municipality, who has served as an elected official of such municipality for a total of eight (8) years or more,

and who in addition thereto has served as an elected public official of the County within which said municipality is located, for less than ten (10) years, and who has attained the age of sixty-four (64) years and has retired from such service or if he shall have heretofore retired from such service, shall, upon the effective date of this act, receive a pension from the municipality, which pension shall amount annually to twenty per cent (20%) of the average compensation in such official's three highest paid years while in the elective office in the municipality."

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws in conflict with the provisions of this act are hereby expressly repealed.

Approved August 26, 1971.

Time: 2:53 P.M.

Act No. 433

S. 533—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 458, H. 501, Regular Session, 1967 (Acts 1967, p. 1150), which provides that certain cities classified on a population basis shall be empowered to offer rewards for apprehension of criminals.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 458, H. 501, Regular Session 1967 (Acts 1967, p. 1150), is hereby amended to read as follows:

"An Act to provide that the governing body of cities having a population of not less than 175,000 nor more than 275,000 according to the last or any subsequent federal decennial census shall be empowered to offer a reward for the apprehension or furnishing of information leading to the apprehension and conviction of persons committing crimes within said cities in an amount not exceeding one thousand dollars."

Section 2. Section 1 of said Act No. 458, H. 501, Regular Session 1967 (Acts 1967, p. 1150), is hereby amended to read as follows:

"Section 1. The governing body of every city having a population of not less than 175,000 nor more than 275,000 according to the last or any subsequent federal decennial census shall have the authority, when a crime is committed within any

such city, to offer a reward not exceeding one thousand dollars, payable from the general fund of the city to any person who shall apprehend or provide information leading to the apprehension and conviction of the person or persons committing said crime."

Section 3. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 2:54 P.M.

Act No. 434

S. 535—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 26, H. 48, Special Session 1962 (Acts 1962, p. 37), which provides for the payment of benefits to employees of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 26, H. 48, Special Session 1962 (Acts 1962, p. 37) is hereby amended to read as follows:

"An Act relating to cities having populations of not less than 70,000 nor more than 135,000 inhabitants: To provide for the payment of benefits to employees of any such city who are totally disabled as the result of injuries received in the performance of their official duties and to the surviving dependents of employees of such city who are killed in the performance of their official duties."

Section 2. Section 1 of Act No. 26, H. 48, Special Session 1962 (Acts 1962, p. 37) is hereby amended to read as follows:

"Section 1. Any employee of any city having a population of not less than 70,000 nor more than 135,000 inhabitants, according to the last or any subsequent federal census, who is totally disabled as a result of an injury received while in the performance of his official duties shall receive each month during the time such total disability shall continue a benefit payment equal to the amount of one-half of his base monthly compensation at the time of his injury. Provided, that should the personnel board, if any, of such city so order, such employee may be paid his regular compensation for a period not exceeding six months."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 2:55 P.M.

Act No. 435

S. 536—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 255, H. 269, Special Session 1964 (Acts 1964, p. 351), as amended by Act No. 379, H. 427, Special Session 1966 (Acts 1966, p. 523), which provides for the compensation of the ex officio judge of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 255, H. 269, Special Session 1964 (Acts 1964, p. 351), is hereby amended to read as follows:

“An Act relating to counties with cities having populations of not less than 175,000 nor more than 275,000; regulating further the compensation of the judge of certain inferior civil courts.”

Section 2. Section 1 of Act No. 255, H. 269, Special Session 1964, (Acts 1964, p. 351) is hereby amended to read as follows:

“Section 1. The ex officio judge of any inferior civil court established by local law for any city having a population of not less than 175,000 nor more than 275,000, according to the last or any subsequent federal decennial census, shall receive as compensation for his services as such ex officio judge of such court the sum of \$1,500.00 per annum, payable in monthly installments out of the county treasury.”

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective on September 1, 1971.

Approved August 26, 1971.

Time: 2:56 P.M.

Act No. 436

S. 537—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 33, H. 48, Special Session 1970 (Acts 1970, p. 2655), which authorizes certain cities classified on a population basis to make appropriations to any State institution of higher learning.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 33, H. 48, Special Session 1970 (Acts 1970, p. 2655), is hereby amended to read as follows:

“An Act applicable to those municipalities in the State having a population of not less than 175,000 nor more than 275,000 inhabitants according to the last or any subsequent Federal census; to authorize each such municipality to make appropriations to any State institution of higher learning for the payment of all or any part of the cost of any educational building or other educational facility of such institution; to authorize any such municipality to issue interest-bearing warrants for the purpose of paying all or any part of the cost of any educational building or other educational facility of a State institution of higher learning; to authorize the governing body of each such municipality to prescribe the terms and provisions of such warrants; and to provide that this act shall be cumulative and severable.”

Section 2. Section 1 of said Act No. 33, H. 48, Special Session 1970 (Acts 1970, p. 2655), is hereby amended to read as follows:

“Section 1. Applicability of Act. This Act shall apply only with respect to those municipalities in the State of Alabama having a population of not less than 175,000 inhabitants nor more than 275,000 inhabitants according to the last preceding Federal census or according to any subsequent Federal census.”

Section 3. This Act shall become effective September 1, 1971.

Section 4. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Approved August 26, 1971.

Time: 2:57 P.M.

Act No. 437

S. 538—Edington, Noonan, Pelham

AN ACT

To amend the Title, Section 1, and Section 2 of Act No. 666, H. 916, Regular Session 1967 (Acts 1967, p. 1487), which provides for the administration of property for parking facilities.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 666, H. 916, Regular Session 1967 (Acts 1967, p. 1487), is hereby amended to read as follows:

“An Act relating to cities having a population of not less than 40,000 nor more than 50,000 according to the last or any subsequent federal decennial census; providing for the planning, design, location, financing, acquisition of property for, construction, alteration, enlargement, use, maintenance, and fostering of off-street automobile parking facilities in such cities.”

Section 2. Section 1 of said Act No. 666, H. 916, Regular Session 1967 (Acts 1967, p. 1487), is hereby amended to read as follows:

“Section 1. It is hereby determined and declared that in cities having a population of not less than 40,000 nor more than 50,000, according to the last or any subsequent federal decennial census, that the free circulation of traffic of all kinds through the streets of said municipalities within this state is necessary to the health, safety and general welfare of the public; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in streets of said municipalities; that the parking of motor vehicles in the streets has contributed to this congestion; that such congestion prevents the free flow of traffic in, through and from such municipalities, impedes the rapid and effective fighting of fires and disposition of police force, threatens irreparable loss in the values of urban property within said cities which can no longer be readily reached by vehicular traffic and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions of sufficient off-street parking facilities; that adequate off-street parking facilities have not been provided and parking spaces now existing must be forthwith supplemented by off-street parking facilities provided by public undertaking; and that the enactment of the provisions of this Act is hereby declared to be a public necessity. This Act shall apply only to such cities.”

Section 3. Section 2 of said Act No. 666, H. 916, Regular Session 1967 (Acts 1967, p. 1487) is hereby amended to read as follows:

"Section 2. The council or other governing body of all cities within the State of Alabama, having a population of not less than 40,000 nor more than 50,000, according to the last or any subsequent federal decennial census, is hereby authorized and empowered to acquire, receive, take and hold, whether by purchase, gift, lease, devise, or otherwise, property of every description, whether real, personal or mixed, and to manage said property and to develop any undeveloped property owned, leased or controlled by such city for the purposes hereinafter set out; to execute such contracts and other instruments and to take such other action as may be necessary and convenient to carry out the provisions of this Act or to exercise the power granted hereunder; to plan, establish, acquire, construct, enlarge, improve, maintain, equip, regulate and protect parking facilities; to lease or let such facilities or any one or more of them to such tenant or tenants for such term, or terms, at such compensation or rental as the council or other governing body may from time to time direct; to issue interest bearing revenue bonds payable from the limited sources hereinafter referred to; to pledge for payment of such bonds any revenues or funds from which such bonds are made payable; to make and enter into contracts, leases and agreements incidental to or necessary for the accomplishment of any purpose or purposes authorized by this Act; to make and enforce rules and regulations governing the use of any parking facilities owned or controlled by said city; to cooperate with the State; any county, city, or town, public corporation, agency, department, or political subdivision of the State, and to make such contracts with them or any of them as the council or other governing body may deem advisable to accomplish the purposes of this Act; to receive and accept grants for or in aid of the construction, extension, improvement, maintenance or operation of any parking facility from the United States of America or any agency thereof, from the state, any department or agency thereof and any political subdivision thereof and to receive and accept money, property, labor or other things of value from any source whatsoever; and to do any and all things necessary or convenient for the exercise of any power herein granted."

Section 4. All laws and parts of laws in conflict with provisions of this Act are hereby expressly repealed.

Section 5. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 2:58 P.M.

Act No. 438

S. 539—Edington, Noonan, Pelham

AN ACT

To amend the title and Section 1 of Act No. 194, S. 99; Special Session 1969 (Acts 1969, p. 257), which Act provides for a public transit system in certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 194, S. 99, Special Session 1969 (Acts 1969, p. 257), is hereby amended to read as follows:

“An Act to authorize each municipality at any time having a population as great as 175,000 and not exceeding 275,000, according to the then next preceding Federal Census, to acquire, own, improve, maintain, and operate within the county in which such municipality is located, a public transit system for the transportation of passengers for hire; to provide that any such municipality shall have the power to expend moneys with respect to any such system; and to provide for the use by any such municipality of public roads in the said county in the operation of such system.”

Section 2. Section 1 of said Act No. 194, S. 99, Special Session 1969 (Acts 1969, p. 257), is hereby amended to read as follows:

“Section 1. Definitions. The following words and phrases, wherever used in this act, shall have the respective meanings hereinafter ascribed to them:

“Federal Census” means any decennial census and any special census made by or under the direction of the Bureau of the Census of the United States Department of Commerce, or by any other bureau or agency of the United States that may succeed to the functions of the said Bureau of the Census.

“Municipality” means as of any particular time a municipal corporation organized under the laws of this state that has a population as great as 175,000 and not exceeding 275,000, according to the then next preceding Federal Census.

“Passenger Transit Vehicle” means and includes any of the following that has space for seven or more seated passengers: street railway cars, trolley coaches propelled by electric power drawn from an outside source by means of connection with fixed overhead apparatus, and self-propelled motor vehicles whether or not operated on tracks.

“Public Transit System” means any plant, property or facility used or suitable for use in the transportation of the public as passengers for hire by passenger transit vehicles, including the said passenger transit vehicles, tracks, overhead

apparatus and other appurtenances thereto, garages, shops and other facilities for the storing, parking, maintenance and repair of such vehicles, administrative buildings, and other structures, equipment and properties necessary or convenient to the operation of passenger transit vehicles for transportation of the public as passengers for hire.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 2:59 P.M.

Act No. 439

S. 731—Harris

AN ACT

Relating to the provisions of clerks, equipment and supplies for the Probate Judge, Sheriff, Tax Assessor and Tax Collector in counties having a population of not less than 39,500 nor more than 41,750 according to the last federal census.

Be It Enacted by the Legislature of Alabama:

Section 1. The Board of County Commissioners, or other like governing body of the county, shall provide the offices of Probate Judge, Sheriff, Tax Assessor and Tax Collector of such county, with the necessary books, records, equipment, furniture, fixtures, stationery, postage and other supplies, and with sufficient clerks and assistants. The Probate Judge, Sheriff, Tax Assessor and Tax Collector shall each respectively have the authority to select, employ and discharge at will his clerks and assistants, and to fix their compensation, but the total compensation of such clerks and assistants in each of the designated offices shall not exceed such sum as the Board of County Commissioners, or other like governing body, shall allow respectively to such office. The Board of County Commissioners, or other like governing body, shall have authority to make an allowance for such compensation and to raise and lower the same from time to time as may, in their judgment be warranted by circumstances and conditions.

Section 2. This Act shall become effective on October 1, 1971.

Approved August 26, 1971.

Time: 3:00 P.M.

Act No. 440

S. 733—Harris

AN ACT

To provide that certain cities classified according to population, may abate or reduce assessments made for public improvements.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of any city having a population of not less than 13,600 nor more than 14,365, according to the most recent federal census shall have power to reduce or abate any assessments heretofore or hereafter made for public improvements in such city in cases where such assessments have been levied or attempted to be levied against property owned by the state of Alabama or by such city or by the county in which such city is located or by any church, hospital or other charitable organization or in any case where the governing body after due inquiry has determined that the assessment on any particular property has been made erroneously or in excess of the benefit derived by such property or so great as to constitute an undue burden upon the property, having in view the value thereof, whether or not such assessment shall have been made final and the time to appeal therefrom expired.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:01 P.M.

Act No. 441

S. 812—Foshee

AN ACT

To alter, redefine, rearrange and extend the boundary lines and corporate limits of the City of Luverne in Crenshaw County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Luverne in Crenshaw County are hereby altered, redefined, rearranged and extended so as to include within the corporate limits of the city, inclusive of the area now embraced within the corporate limits of the city, the following described property:

The West $\frac{1}{2}$ and the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of Section Twenty-seven.

All of Section Twenty-eight.

All of Section Twenty-nine except the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$.

All of Section Thirty-two.

All of Section Thirty-three.

The West $\frac{1}{2}$ and the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of Section Thirty-four.

All being in Township Nine North of the St. Stephens Base Line, Range Eighteen East of the St. Stephens Meridian.

And,

The West $\frac{1}{2}$ and the West $\frac{1}{2}$ of the East $\frac{1}{2}$ of Section Three

All of Section Four

All of Section Five

The Northeast $\frac{1}{4}$ of Section Eight

The Northwest $\frac{1}{4}$ of Section Nine.

All being in Township Eight North of the St. Stephens Base Line, Range Eighteen East of the St. Stephens Meridian.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:02 P.M.

Act No. 442

S. 813—Foshee

AN ACT

To alter, rearrange and extend to boundary lines and corporate limits of the town of Glenwood in Crenshaw County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the town of Glenwood in Crenshaw County are hereby altered, rearranged and extended so as to include within the corporate limits of the town, in addition to the area now embraced within the corporate limits of the town, the following described property:

The South $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section Eight.

The Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section Seventeen.

All being in Township Eight North of the St. Stephens Base Line, Range Nineteen East of the St. Stephens Meridian.

Section 2. This Act shall become immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:03 P.M.

Act No. 443

S. 814—Foshee

AN ACT

To amend Section 7 of Act No. 112, S. 51, Special Session 1971, approved May 11, 1971, which provides for the election of members of the Crenshaw County Commission so as to make the provisions of the Act effective immediately.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 7 of Act No. 112, S. 51, Special Session 1971, approved May 11, 1971, is hereby amended to read as follows:

“Section 7. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.”

Approved August 26, 1971.

Time: 3:04 P.M.

Act No. 444

S. 816—Clark

AN ACT

Relating to corporations organized to operate municipal water, sewer, gas, and electric systems; regulating further the compensation of members of boards of directors of such corporations in Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. When any officer of a municipality is a member of the board of directors of a corporation organized to operate a municipal water, sewer, gas, or electric system pursuant to the Act of June 29, 1951, in Barbour County he is entitled to

compensation the same as the other directors of the corporation, the provisions of any other law to the contrary notwithstanding.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 3:05 P.M.

Act No. 445

S. 817—Clark

AN ACT

Providing an expense allowance for the tax assessor of Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. The Barbour County Commission shall pay to the tax assessor from the general fund of the county an expense allowance of twenty-four hundred dollars (\$2,400) per annum for the operation of his office.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:06 P.M.

Act No. 446

S. 818—Clark

AN ACT

Relating to Barbour County; To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Any person, firm, or corporation desiring to operate a hunting or shooting preserve in Barbour County on which artificially propagated birds may be hunted, taken, captured, killed, or otherwise recovered, may do so upon obtaining a hunting preserve license and complying with the provisions

of this Act and all rules and regulations prescribed by the director of conservation governing the operation of hunting preserves.

Section 2. Each hunting preserve shall contain a minimum of 100 acres in one tract of leased or owned land, including water area, if any, and shall be restricted to not more than 1,000 contiguous acres including water, if any. The exterior boundaries of each hunting preserve shall be bordered by a single strand of wire or such fence as is acceptable to the state director of conservation, except where rivers, creeks, roads, or other clearly defined demarcations or delineations, acceptable to the director of conservation, form the boundary or a part thereof. Signs shall be erected at intervals of not less than 150 feet around the perimeter of the tract. At the top of each sign shall appear in letters not less than 2 inches high the words, "LICENSED HUNTING PRESERVE," and such other words as the director of conservation may prescribe. No hunting preserve shall be located within one mile of any other such preserve or within one mile of any management area or refuge existing under state or federal law or regulations at the time of the establishment of such hunting preserve. No license shall be issued for any hunting preserve on which the shooting of turkeys is authorized.

Section 3. Game which may be hunted on a preserve licensed under this Act shall be artificially propagated bob-white, quail, coturnix quail, pheasants, chuckar partridge, and such other species of fowl as the director of conservation shall designate. A minimum stock of at least 1,000 bob-white quail, if bob-white quail are to be hunted on the preserve, and a minimum stock of 200 of each of the other species of birds, listed above, to be hunted on a licensed preserve shall be released on the licensed hunting area during each hunting season.

Section 4. The privilege license or permit fee for operating a hunting preserve shall be \$25 per year for the first 100 acres of hunting preserve area plus \$5 per year for each additional 100 acres or part thereof. Any person who desires to operate such a hunting preserve shall first file a request with a local state game warden, or with the state department of conservation, to have the tract which he proposes to use as a hunting preserve inspected, and if it meets the requirements of this Act and the rules and regulations of the department of conservation he shall have a permit issued to him to procure a license to operate such hunting preserve. Upon presentation to the judge of probate of the county in which the preserve is located of a permit from the department of conservation, dated not more than thirty days prior to its presentation, accompanied by the proper license fee prescribed in this section and an issuance fee of fifty cents,

the judge of probate of any county to which this Act applies shall issue a privilege license to operate a hunting preserve to the applicant. Privilege licenses to operate hunting preserves shall be issued on forms prescribed by the director of conservation and furnished by him to the judges of probate. All fees collected by the judges of probate for issuing hunting preserve licenses shall be remitted at the same time and in the same manner that hunting and fishing license fees are remitted and shall be paid into the game and fish fund of the state department of conservation.

Section 5. The holder of a license issued pursuant to this Act, his guest, and patrons may hunt, take, capture, kill or otherwise recover during the year no more than 80 per cent of the total number of each species of birds released on the preserve during such year. The season during which each species of birds may be hunted, taken, captured, killed, or otherwise recovered on such preserve and the bag limits shall be prescribed by the state director of conservation; but in no event shall the season be longer than six months, nor shall it begin before October 1, nor extend later than March 31 of any year.

Section 6. Bob-white quail and coturnix quail shall be tagged with self-sealing tag prior to being released on the preserve. The operators of hunting preserves shall cooperate in other requests which the director of conservation might make for scientific investigations. The Alabama Department of Conservation shall specify tags which hunting preserve operators shall use, the tags to be numbered consecutively, dated by year of issuance, and carry the operator's license number.

Section 7. Each hunting preserve operator shall maintain a register and record therein the names, addresses, hunting license numbers, the date on which each hunted, and the amount and species of game taken by each hunter. An accurate record by species shall also be maintained of the total number of birds raised on the preserve or purchased, and the number of each species released thereon each year. These records shall be open to inspection by any duly authorized representative of the state department of conservation at any reasonable time, and shall be the basis upon which the bag limits and hunting seasons in section 6 hereof shall be determined.

Section 8. Alabama hunting licenses shall be required of all persons hunting on licensed hunting preserves. Alabama residents shall be licensed under the regularly established game laws. Each non-resident hunting on a licensed preserve shall be required to possess a regular non-resident annual hunting license or a non-resident trip hunting license.

Section 9. Duly authorized agents of the state department of conservation, game wardens, and other law enforcement offi-

cers duly authorized to enforce game and fish laws shall have authority to enforce all game and fish laws and regulations on such preserves; and for such purposes are authorized to enter and inspect licensed hunting preserves. Violations of game and fish laws and regulations on such hunting preserves either by the owner, guests, or patrons of such preserves shall be grounds for revocation of the hunting preserve license; and the director of conservation may immediately revoke a hunting license upon proof that any such violations have occurred thereon.

Section 10. Any person, firm, or corporation who operates a licensed hunting preserve in violation of any provision of this Act or a duly promulgated rule of the director of conservation relative to the operation thereof shall be guilty of a misdemeanor; and upon conviction shall be punished by a fine of not less than \$50 nor more than \$500 and at the discretion of the court may also be imprisoned for a period of not more than six months for each offense.

Section 11. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

Section 12. All laws or parts of laws which conflict with this Act are repealed.

Section 13. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 3:07 P.M.

Act No. 447

S. 819—Clark

AN ACT

To authorize the Barbour County Commission to regulate the minimum size of lots and the planning and constructions of all public streets, public roads, and drainage structures located or to be located in subdivisions of land situated outside the corporate limits of any municipality in Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. The Barbour County Commission is authorized to regulate the minimum size of lots located or to be located in subdivisions of land situated outside the corporate limits of any municipality in said county and is authorized to regulate the planning and construction of all public streets, public roads, and drainage structures located or to be located in subdivisions of land situated outside the corporate limits of any municipality

in said county, including the power to require the filing and posting of a reasonable surety bond with such County Commission by the developers of such subdivisions to guarantee the actual construction and installation of such approved proposed public streets, public roads, and drainage structures before the sale or offering for sale of any lots from such subdivision to the public. The County Commission may require the developers of all proposed subdivisions of lands situated outside the corporate limits of any municipality in said county to submit the plat of such proposed subdivision to the County Commission of said county for approval before such plat is filed for record in the office of the judge of probate.

Section 2. If any such public street, public road or drainage structure is erected, constructed or maintained in violation of the provisions of this Act or any regulations made pursuant thereto, the county may institute appropriate action or proceedings to prevent such unlawful erection, construction or maintenance, or to require such erection, construction, or maintenance to conform to the regulations prescribed therefor.

Section 3. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:08 P.M.

Act No. 448

S. 820—Clark

AN ACT

Providing further for the compensation and allowances of jurors in Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. In Barbour County jurors shall be entitled to such per diem pay not exceeding twelve dollars for each day's service as the county commission may by resolution direct and five cents for each mile traveled in going to and returning from court, plus ferriage and toll, to be proved by the oath of the juror before the clerk of the court. The clerk shall give each juror a certificate, stating therein the number of days he has served, the number of miles he has traveled, the amount of ferriage and toll he has paid, and the amount of compensation to which he is entitled. The pay and allowances of jurors as provided in this Act shall be for all jurors serving in all courts of the county in all kinds of cases.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:09 P.M.

Act No. 449

S. 821—Clark

AN ACT

Providing an additional deputy circuit clerk for Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. The Barbour County Commission shall authorize the circuit clerk to appoint a deputy clerk, in addition to the deputies now provided by law, whose salary shall be three thousand dollars (\$3,000) per annum and shall be paid by the county.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:10 P.M.

Act No. 450

S. 822—Clark

AN ACT

Providing an expense allowance for the probate judge of Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. The Barbour County Commission shall pay to the probate judge from the general fund of the county an expense allowance of twenty-four hundred dollars (\$2,400) per annum for the operation of his office. Such allowance shall be in addition to any other allowance or compensation provided by law.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:11 P.M.

Act No. 451

S. 823—Clark

AN ACT

Relating to Barbour County; providing an additional expense allowance for the judge of probate of said county for the ex officio duties performed by him as judge of the county court.

Be It Enacted by the Legislature of Alabama:

Section 1. The probate judge of Barbour County shall receive an expense allowance of \$1,500 per annum for the expenses incurred in performance of his ex officio duties as judge of the county court. The allowance herein provided shall be in addition to any other compensation or allowances payable to such judge, and shall be paid in equal monthly installments out of the county treasury.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:12 P.M.

Act No. 452

S. 824—Clark

AN ACT

Providing clerk hire allowances for probate judges of Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. Relating to Barbour County: The judge of probate shall be entitled to an allowance of \$100 a month for the employment of a clerk at each courthouse within the county, subject to approval of the County Commission. Such allowances shall be paid from the general funds of the county at the end of each month. The allowances provided for in this Act shall be in addition to all compensation, fees, commissions, percentages, and allowances heretofore provided the probate judge by law.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:13 P.M.

Act No. 453

S. 825—Clark

AN ACT

Providing an expense allowance for the tax collector of Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. The Barbour County Commission shall pay to the tax collector from the general fund of the county an expense allowance of twenty-four hundred dollars (\$2,400) per annum for the operation of his office.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:14 P.M.

Act No. 454

S. 826—Clark

AN ACT

Relating to Barbour County: to authorize the county commission to appropriate and use certain county funds and to designate and use certain county property, buildings, and facilities in order to qualify for and receive federal assistance under the federal Economic Opportunity Act of 1964; and to provide retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The Barbour County Commission shall have authority to appropriate and use such sums from the general funds of the county not otherwise appropriated, and to designate and use such county property, buildings, and facilities, as may be necessary to enable the county to participate in programs and receive benefits and funds provided for and made available by and from the federal government under Public Law 88-452, known as the Economic Opportunity Act of 1964, as approved by Congress on August 20, 1964, when the county governing body, in its discretion, considers such action to be in the best interests of the county. Provided, however, that such sums and such property, buildings, and facilities shall not be appropriated, designated, or used in any manner which conflicts with the Constitution or statutes of the State of Alabama.

Section 2. The provisions of this Act shall be retroactive to June 1, 1966; and any appropriation of funds or designation of property made on or since such date by the county commission as herein authorized is hereby declared valid and effective.

Section 3. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:15 P.M.

Act No. 455

S. 827—Clark

AN ACT

Relating to law enforcement in Barbour County; fixing the fee for the issuance of pistol permits, providing for the deposit of such fees in a fund to be designated the sheriff's fund and providing for the use of such fund.

Be It Enacted by the Legislature of Alabama:

Section 1. In Barbour County the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama 1940, Title 14, Section 177, shall be five dollars, which shall be collected by the sheriff.

Section 2. One dollar of each fee collected under Section 1 of this Act shall be paid into the county treasury and the remaining four dollars of each fee shall be deposited by the sheriff of Barbour County in any bank located in Barbour County, into a fund known as the sheriff's fund.

Section 3. The sheriff's fund provided for in Section 2 of this Act shall be drawn upon by the sheriff of Barbour County or his appointed agent and shall be used exclusively for law enforcement purposes and in the discharge of the sheriff's office as he sees fit.

Section 4. The establishment of the sheriff's fund as provided in this Act and the use of such funds shall in no way diminish or take the place of any other imbursement or other source of income established for the sheriff or the operation of his office.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:16 P.M.

Act No. 456

S. 828—Clark

AN ACT

To repeal Act No. 903, H. 1270, approved September 12, 1969, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census; providing an expense allowance for the tax assessor of such counties; and repealing conflicting laws," (Acts of Alabama 1969, p. 1628).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 903, H. 1270, approved September 12, 1969, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census; providing an expense allowance for the tax assessor of such counties; and repealing conflicting laws," (Acts of Alabama 1969, p. 1628) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:17 P.M.

Act No. 457

S. 829—Clark

AN ACT

To repeal Act No. 902, H. 1269, approved September 12, 1969, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census; providing an expense allowance for the tax collector of such counties; and repealing conflicting laws," (Acts of Alabama 1969, p. 1627).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 902, H. 1269, approved September 12, 1969, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census; providing an expense allowance for the tax collector of such counties; and repealing conflicting laws," (Acts of Alabama 1969, p. 1627) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:18 P.M.

Act No. 458

S. 830—Clark

AN ACT

To repeal Act No. 348, S. 362, approved September 5, 1967, entitled, "An Act To apply only in counties having populations of not less than 24,600 nor more than 25,000; to authorize the board of revenue to appropriate and use certain county funds and to designate and use certain county property, buildings, and facilities in order to qualify for and receive federal assistance under the federal Economic Opportunity Act of 1964; and to provide retroactive effect" (Acts of Alabama 1967, p. 907).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 348, S. 362, approved September 5, 1967, entitled, "An Act To apply only in counties having populations of not less than 24,600 nor more than 25,000; to authorize the board of revenue to appropriate and use certain county funds and to designate and use certain county property, buildings, and facilities in order to qualify for and receive federal assistance under the federal Economic Opportunity Act of 1964; and to provide retroactive effect," (Acts of Alabama 1967, p. 907) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:19 P.M.

Act No. 459

S. 831—Clark

AN ACT

To repeal Act No. 486, H. 698, approved September 7, 1967, entitled, "An Act to apply only in counties having populations of not less than 20,000 nor more than 25,000 where there are two courthouses within the county and the county governing body is a board of revenue; providing further for the compensation and allowances of jurors in all such counties" (Acts of Alabama 1967, p. 1181).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 486, H. 698, approved September 7, 1967, entitled, "An Act to apply only in counties having populations of not less than 20,000 nor more than 25,000 where there are two courthouses within the county and the county governing body is a board of revenue; providing further for the compensation and allowances of jurors in all such counties," (Acts of Alabama 1967, p. 1181) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:21 P.M.

Act No. 460

S. 832—Clark

AN ACT

To repeal Act No. 485, H. 697, approved September 5, 1967, entitled, "An Act To apply only in counties having populations of not less than

20,000 nor more than 25,000 and two courthouses where the county governing body is the board of revenue; further regulating the schedule days of meeting of the board of equalization at the two courthouses of the county; providing an option for taxpayers as to the place of holding certain hearings, and requiring notice thereof," (Acts of Alabama 1967, p. 1180).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 485, H. 697, approved September 5, 1967, entitled, "An Act To apply only in counties having populations of not less than 20,000 nor more than 25,000 and two courthouses where the county governing body is the board of revenue; further regulating the schedule days of meeting of the board of equalization at the two courthouses of the county; providing an option for taxpayers as to the place of holding certain hearings, and requiring notice thereof," (Acts of Alabama 1967, p. 1180) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:21 P.M.

Act No. 461

S. 833—Clark

AN ACT

To repeal Act No. 63, H. 5, approved April 5, 1967, entitled, "An Act To amend Act No. 523, S. 354, Regular Session 1961, an act applying only in counties having populations of not less than 20,000 nor more than 25,000 and two courthouses (Acts 1961, v. 1, p. 623)", (Acts of Alabama 1967, p. 97).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 63, H. 5, approved April 5, 1967, entitled, "An Act To amend Act No. 523, S. 354, Regular Session 1961, an act applying only in counties having populations of not less than 20,000 nor more than 25,000 and two courthouses (Acts 1961, v. 1, p. 623)", (Acts of Alabama 1967, p. 97) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:22 P.M.

Act No. 462

S. 834—Clark

AN ACT

To repeal Act No. 523, S. 354, approved August 22, 1961, entitled, "An Act Authorizing the governing body of any county having a population of not less than 20,000, and not more than 25,000 inhabitants and two courthouses, and the county governing body of such county is a board of revenue, to authorize the circuit clerk to appoint an additional deputy, whose salary shall be paid by the county," (Acts of Alabama 1961, p. 623).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 523, S. 354, approved August 22, 1961, entitled, "An Act Authorizing the governing body of any county having a population of not less than 20,000, and not more than 25,000 inhabitants and two courthouses, and the county governing body of such county is a board of revenue, to authorize the circuit clerk to appoint an additional deputy, whose salary shall be paid by the county," (Acts of Alabama 1961, p. 623) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:23 P.M.

Act No. 463

S. 835—Clark

AN ACT

To repeal Act No. 900, H. 1267, approved September 12, 1969, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census; and providing an expense allowance for the probate judge of such counties," (Acts of Alabama 1969, p. 1626).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 900, H. 1267, approved September 12, 1969, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census; and providing an expense allowance for the probate judge of such counties," (Acts of Alabama 1969, p. 1626) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:24 P.M.

Act No. 464

S. 836—Clark

AN ACT

To repeal Act No. 122, H. 359, approved July 31, 1967, entitled, "An Act To apply only in counties having populations of not less than 24,600 nor more than 25,000, providing clerk hire allowances for probate judges of all such counties," (Acts of Alabama 1967, p. 460).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 122, H. 359, approved July 31, 1967, entitled "An Act To apply only in counties having populations of not less than 24,600 nor more than 25,000, providing clerk hire allowances for probate judges of all such counties," (Acts of Alabama 1967, p. 460) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:25 P.M.

Act No. 465

S. 837—Clark

AN ACT

To repeal Act No. 87, S. 208, approved July 15, 1967, entitled, "An Act To apply only in counties having populations of not less than 24,600 nor more than 25,000; providing clerk hire allowances for probate judges of all such counties," (Acts of Alabama 1967, p. 419).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 87, S. 208, approved July 15, 1967, entitled, "An Act To apply only in counties having populations of not less than 24,600 nor more than 25,000; providing clerk hire allowances for probate judges of all such counties," (Acts of Alabama 1967, p. 419) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:26 P.M.

Act No. 466

S. 838—Clark

AN ACT

To repeal Act No. 901, H. 1268, approved September 12, 1969, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census; providing an additional deputy circuit clerk for such counties, and repealing conflicting laws." (Acts of Alabama 1969, p. 1627).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 901, H. 1268, approved September 12, 1969, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census; providing an additional deputy circuit clerk for such counties, and repealing conflicting laws," (Acts of Alabama 1969, p. 1627) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:27 P.M.

Act No. 467

S. 839—Clark

AN ACT

To repeal Act No. 772, H. 1477, approved September 8, 1961, entitled, "An Act Relating to corporations organized to operate municipal water, sewer, gas, and electric systems; regulating further the compensation of members of boards of directors of such corporations in all counties having a population of not less than 24,600 nor more than 25,300, according to the 1960 or any subsequent federal decennial census." (Acts of Alabama 1961, p. 1110).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 772, H. 1477, approved September 8, 1961, entitled, "An Act Relating to corporations organized to operate municipal water, sewer, gas, and electric systems; regulating further the compensation of members of boards of directors of such corporations in all counties having a population of not less than 24,600 nor more than 25,300, according to the 1960 or any subsequent federal decennial census." (Acts of Alabama 1961, p. 1110) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:28 P.M.

Act No. 468

S. 840—Clark

AN ACT

To repeal Act No. 33, S. 106, approved September 23, 1965, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census to provide an additional expense allowance for the judge of

probate of any such county for the ex officio duties performed by him as judge of the county court." (Acts of Alabama 1965, p. 49).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 33, S. 106, approved September 23, 1965, entitled, "An Act Relating to counties having populations of not less than 24,600 nor more than 25,300, according to the most recent federal decennial census to provide an additional expense allowance for the judge of probate of any such county for the ex officio duties performed by him as judge of the county court." (Acts of Alabama 1965, p. 49) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:29 P.M.

Act No. 469

S. 841—Clark

AN ACT

To repeal Act No. 525, S. 356, approved August 22, 1961, entitled, "An Act To provide further for the compensation of the members of the county governing body in all counties having a population of not less than 24,600 nor more than 25,300, according to the last or any subsequent federal decennial census." (Acts of Alabama 1961, p. 624).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 525, S. 356, approved August 22, 1961, entitled, "An Act To provide further for the compensation of the members of the county governing body in all counties having a population of not less than 24,600 nor more than 25,300, according to the last or any subsequent federal decennial census." (Acts of Alabama 1961, p. 624) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:30 P.M.

Act No. 470

S. 842—Clark

AN ACT

To repeal Act No. 13, S. 66, approved September 21, 1965, entitled, "An Act To amend Act No. 525, S. 356 of the Regular Session of 1961,

so as to increase the additional compensation provided for members of the county governing body in all counties having populations of not less than 24,600 nor more than 25,300 according to the most recent federal decennial census." (Acts of Alabama 1965, p. 25).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 13, S. 66, approved September 21, 1965, entitled, "An Act To amend Act No. 525, S. 356 of the Regular Session of 1961, so as to increase the additional compensation provided for members of the county governing body in all counties having populations of not less than 24,600 nor more than 25,300 according to the most recent federal decennial census." (Acts of Alabama 1965, p. 25) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:31 P.M.

Act No. 471

S. 843—Clark

AN ACT

To repeal Act No. 12, S. 65, approved September 21, 1965, entitled "An Act Relating to counties having a population of not less than 24,600 nor more than 25,300; providing for the payment of an expense allowance to the judge of the court of common pleas in any such county." (Acts of Alabama 1965, p. 25).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 12, S. 65, approved September 21, 1965, entitled, "An Act Relating to counties having a population of not less than 24,600 nor more than 25,300; providing for the payment of an expense allowance to the judge of the court of common pleas in any such county." (Acts of Alabama 1965, p. 25) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:32 P.M.

Act No. 472

S. 844—Clark

AN ACT

To repeal Act No. 83, S. 132, approved July 15, 1967, entitled, "An Act To authorize, provide for the licensing of, and to regulate the

operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 24,600 nor more than 25,300 according to the 1960 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act." (Acts of Alabama 1967, p. 414).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 83, S. 132, approved July 15, 1967, entitled, "An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 24,600 nor more than 25,300 according to the 1960 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act." (Act of Alabama 1967, p. 414) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:33 P.M.

Act No. 473

S. 845—Clark

AN ACT

To repeal Act No. 125, H. 175, approved July 16, 1962, entitled, "An Act To authorize the governing bodies of all counties having populations of not less than 24,600 nor more than 25,300 according to the last or any subsequent federal decennial census, to regulate the minimum size of lots and the planning and constructions of all public streets, public roads, and drainage structures located or to be located in subdivisions of land situated outside the corporate limits of any municipality in such counties." (Acts of Alabama 1962, p. 164).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 125, H. 175, approved July 16, 1962, entitled, "An Act To authorize the governing bodies of all counties having populations of not less than 24,600 nor more than 25,300 according to the last or any subsequent federal decennial census, to regulate the minimum size of lots and the planning and constructions of all public streets, public roads, and drainage structures located or to be located in subdivisions of land situated outside the corporate limits of any municipality in such counties." (Acts of Alabama 1962, p. 164) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 26, 1971.

Time: 3:34 P.M.

Act No. 474

S. 854—Wilson

AN ACT

Relating to Walker County; to impose a trial tax on all cases in the Inferior Court of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. On all actions, suits, cases and proceedings hereafter filed in the Inferior Court of Walker County, there shall be charged a trial fee of five dollars, which shall be collected as other costs are collected and paid into the general fund of the county.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:35 P.M.

Act No. 475

S. 855—Wilson

AN ACT

Relating to Walker County, providing for the participation of certain county employees in the Employees' Retirement System of Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. All employees of Walker County whose compensation is paid entirely by the county shall become members of and participants in the State Employees' Retirements System in the manner and according to the procedure prescribed in Act No. 515, H. 93, Regular Session 1945 (General Acts 1945, p. 734) as amended; and the Walker County Commission, shall, within six months from the effective date of this Act, adopt such resolutions, make such agreements, and take such action as may be necessary to effectuate the purposes of this Act.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:36 P.M.

Act No. 476

S. 856—Wilson

AN ACT

To further regulate the late fee collected in the tax collectors office in all counties having a population of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply in all counties having a population of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census.

Section 2. The late fee collected in the tax collectors office of all such counties shall be fifty cents (50¢) above and in addition to all such fees that are now being collected, and shall be deposited in the same fund as the fee now being collected.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:37 P.M.

Act No. 477

S. 857—Wilson

AN ACT

Relating to Walker County; to provide an expense allowance to the Judge of the Inferior Court of said county.

Be It Enacted by the Legislature of Alabama:

Section 1. The Judge of the Inferior Court of Walker County shall receive in addition to all other compensation now, or hereafter provided by law, an expense allowance of \$150.00 per month. Such allowance shall be paid out of the general funds of the county as prescribed by law.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Approved August 26, 1971.

Time: 3:38 P.M.

Act No. 478

S. 907—Wilson

AN ACT

To provide for expense allowances for Probate Judges in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, the Probate Judge may be allowed \$150.00 per month for expenses, which allowance shall be paid out of the general fund in the county treasury, on warrants drawn in the manner prescribed by law. The expense allowances provided for herein shall be in addition to all other allowances provided the Probate Judge for performing the duties of his office.

Section 2. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 3:39 P.M.

Act No. 479

S. 908—Wilson

AN ACT

To provide for expense allowances for Tax Collectors in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, the Tax Collector may be allowed \$150.00 per month for expenses, which allowance shall be paid out of the general fund in the county treasury, on warrants drawn in the manner prescribed by law. The expense allowances provided for herein shall be in addition to all other allowances provided the Tax Collector for performing the duties of his office.

Section 2. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 3:40 P.M.

Act No. 480

S. 909—Wilson

AN ACT

To provide for expense allowances for the Judge of the Intermediate Court in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having a population of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, the Judge of the Intermediate Court may be allowed \$150.00 per month for expenses, which allowance shall be paid out of the general fund in the county treasury, on warrants drawn in the manner prescribed by law. The expense allowances provided for herein shall be in addition to all other allowances provided the Judge of the Intermediate Court for performing the duties of his office.

Section 2. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 3:41 P.M.

Act No. 481

S. 910—Wilson

AN ACT

To provide for expense allowances for tax assessors in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, the tax assessor may be allowed \$150.00 per month for expenses, which allowance shall be paid out of the general fund in the county treasury, on warrants drawn in the manner prescribed by law. The expense allowances provided for herein shall be in addition to all other allowances provided the tax assessor for performing the duties of his office.

Section 2. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 3:42 P.M.

Act No. 482

S. 911—Wilson

AN ACT

Relating to counties having a population of not less than 55,000 nor more than 56,500 according to the most recent federal decennial census; to provide for an increase from \$.50 to \$1.00 in the assessment fee on real and personal property in such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. The assessment fee on real and personal property in counties having a population of not less than 55,000 nor more than 56,500 according to the most recent federal decennial census, is hereby raised to \$1.00 rather than \$.50.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:43 P.M.

Act No. 483

S. 913—Fine

AN ACT

Relating to counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, abolishing the office of county or deputy solicitor in such counties and conferring the duties of such office upon the district attorney.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply in all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census.

Section 2. The office of deputy or county solicitor in any county to which this Act applies is hereby abolished and all the powers and the duties of such office are hereby conferred on the district attorney serving the circuit court in the county.

Section 3. For performing the extra, new and additional duties imposed on him by this Act, the district attorney serving

the circuit court in any such county shall be entitled to receive additional compensation in the sum of two hundred dollars per month, such compensation to be paid out of the general fund in the county treasury.

Section 4. All laws or parts of laws which conflict with this Act are repealed and Act No. 390, S. 195, Special Session 1966 (Acts 1966 V. I, p. 531) is specifically repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:44 P.M.

Act No. 484

S. 914—Fine

AN ACT

Relating to counties having a population of not less than 23,900 nor more than 24,450 and fixing the salary to be paid a deputy at not less than three hundred dollars per month, the said salary to be paid to a deputy in a position not now receiving such salary from the county, with the amount to be paid to be fixed by the county Board of Revenue or like governing body, and providing that the same be paid by the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of any county having a population of not less than 23,900 and not more than 24,450 according to the most recent federal decennial census, shall designate a deputy in a position not now receiving a salary of three hundred dollars (\$300.00) or more per month from the county and the said deputy sheriff shall receive a salary of not less than three hundred dollars (\$300.00) per month. The amount to be paid the said deputy sheriff shall be set by the county Board of Revenue or like governing body. The compensation of the said deputy sheriff shall be paid by the county out of any funds in the county Treasury not otherwise appropriated.

Section 2. All laws or parts of laws which conflict with this act are hereby repealed and Act No. 161, H. 35 Special Session 1964 (Acts 1964 v. I. p. 224) is specifically repealed.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:45 P.M.

Act No. 485

S. 915—Fine

AN ACT

To repeal Act No. 88, H. 208, Second Special Session 1965 (Acts 1965 Second Special Session v. 1, p. 118) an Act to prescribe the duties of the county solicitor or the prosecutor of the inferior courts, including the intermediate courts, of counties having populations of not less than 21,900 nor more than 22,300 according to the most recent or any subsequent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 88, H. 208, Second Special Session 1965 (Acts 1965 Second Special Session v. 1, p. 118), an Act to prescribe the duties of the county solicitor or the prosecutor of the inferior courts, including intermediate courts, of counties having populations of not less than 21,900 nor more than 22,300 according to the last or any subsequent federal decennial census.

Section 2. This Act does not affect rights and duties which matured before its effective date.

Section 3. This Act shall become law upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:46 P.M.

Act No. 486

S. 918—Fine

AN ACT

To regulate the compensation of jurors in counties having populations of not less than 23,900 nor more than 24,450.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, jurors, grand and petit, shall each be entitled to \$10 for each day's service, ten cents for each mile traveled in going to and returning from court, and ferriage and toll, to be proved by the oath of the juror before the clerk of the court. The clerk shall give each juror a certificate stat-

ing therein the number of days he has served, the number of miles he has traveled, the amount of ferriage and toll he has paid, and the amount of compensation to which he is entitled. The certificate shall be receivable in payment of county taxes, and other county dues, and shall be payable out of the county treasury.

Section 2. All laws or parts of laws, general, special, or local, in conflict with this Act are hereby repealed. Act No. 138, H. 406, Regular Session 1967 (Acts 1967, v. 1, p. 474) is specifically repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:47 P.M.

Act No. 487

S. 919—Fine

AN ACT

To apply only in counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, providing additional expense allowances for members of the county board of education.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, the members of the county board of education shall each be entitled to expenses in the amount of \$25.00 per month. Such allowance shall be in addition to all other allowances for expenses heretofore provided for by law and shall be payable from the public school funds of the county at the end of each month.

Section 2. All laws or parts of laws which conflict with this Act are repealed and Act No. 139, H. 407, Regular Session 1967 (Acts 1967 v. I p. 475) is specifically repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:48 P.M.

Act No. 488

S. 920—Fine

AN ACT

To apply only in counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, providing a county supplement to the per diem compensation of members of the county board of equalization.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census the members of the county board of equalization shall each be paid out of the general funds of the county a per diem supplement of five dollars for each day such member is engaged in the discharge of his official duties, which shall be in addition to the per diem compensation paid by the state and county as otherwise provided for by law.

Section 2. All laws or parts of laws which conflict with this Act are repealed and Act. No. 137, H. 405, Regular Session 1967 (Acts 1967 V. I p. 474) is specifically repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:49 P.M.

Act No. 489

S. 921—Fine

AN ACT

Relating to counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census; authorizing the sheriff to appoint an additional deputy sheriff and providing compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, the sheriff is authorized to appoint a deputy in addition to the deputies heretofore authorized by law. Such deputy shall be paid a salary of two hundred seventy-five dollars (\$275) per month by the county, out of any funds in the county treasury not otherwise appropriated.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are repealed and Act No. 289, H. 441, Regular Session 1965 (Acts 1965 V. I, p. 403) is specifically repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:50 P.M.

Act No. 490

S. 922—Fine

AN ACT

To apply only in counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, regulating and providing for the payment of compensation of election officers.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, the officers appointed to hold elections in such counties shall each be entitled to ten dollars. The returning officer shall also be entitled to mileage as prescribed in Code of Alabama 1940, Title 17, Section 198 as amended. The several claims of the election officers shall be paid as preferred claims, out of moneys in the county treasury not otherwise appropriated, on proper proof of service rendered. All amounts paid to election officers under this Act for compensation, per diem or mileage in excess of the amounts prescribed by general laws shall not be reimbursable by the State of Alabama.

Section 2. All laws or parts of laws which conflict with this Act are repealed and Act No. 140, H. 409, Regular Session 1967 (Acts 1967 v. 1. p. 476) is specifically repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:51 P.M.

Act No. 491

S. 923—Fine

AN ACT

To apply only in counties having populations of not less than 23,900 nor more than 24,450 providing expense allowances payable from the county treasury for the coroners of such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, the coroner shall be entitled to an allowance for clerical or secretarial assistants of \$75 per month, which shall be payable from the general funds of the county in equal monthly installments at the end of each month. The expense allowance provided in this Act shall be in addition to any other allowance or compensation provided by law.

Section 2. This act is cumulative and shall take effect on the first of the month next following the date of its enactment.

Approved August 26, 1971.

Time: 3:52 P.M.

Act No. 492

S. 924—Fine

AN ACT

To apply only in counties having populations of not less than 23,900 nor more than 24,450, fixing the compensation of members of the jury commission.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, each member of the jury commission shall be paid the sum of \$15 per day for the time actually engaged in the discharge of his duties as such member, to be paid out of the county treasury upon the warrant of the probate judge of the county. Such warrants are to be issued by such probate judge upon evidence satisfactory to him that such service has been rendered.

Section 2. All laws or parts of laws which conflict with this Act are repealed and Act No. 653, H. 878, Regular Session 1967 (Acts 1967, V. II, p. 1475) is specifically repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:53 P.M.

Act No. 493

S. 925—Fine

AN ACT

To regulate the compensation of members of the county board of registrars in all counties having populations of not less than 23,900 nor more than 24,450, according to the most recent federal decennial census; providing for payment of additional compensation from the county treasury.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 23,900 nor more than 24,450, according to the most recent federal decennial census, each member of the county board of registrars shall receive fifteen dollars (\$15) per day for each day's attendance upon the session of the board. Of this, ten dollars (\$10) per day shall be paid by the state as prescribed by Act No. 531, S. 101, Regular Session 1947 (General Acts 1947, p. 388), as amended, and the remaining five dollars (\$5) shall be paid from the general funds of the county.

Section 2. All laws or parts of laws which conflict with this Act are repealed and Act No. 565, H. 722, Regular Session 1967 (Acts 1967, v. II, p. 1320) is specifically repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:54 P.M.

Act No. 494

S. 927—Fine

AN ACT

Relating to counties having a population of not less than 23,900 nor more than 24,450, fixing the fee for issuance of a pistol permit by the sheriffs in such counties and providing for the distribution and use of such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having a population of not less than 23,900 nor more than 24,450 according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama 1940, Title 14, Section 177, shall be \$5.00, which shall be collected by the sheriff of such county and deposited in the county treasury. All revenues from said fee shall be paid into the general fund in the county treasury.

Section 2. All laws or parts of laws which conflict with this Act are repealed and Act No. 1043, H. 1253, Regular Session 1969 (Acts 1969 V. III p. 1924) is specifically repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:55 P.M.

Act No. 495

S. 935—Clark

AN ACT

To authorize establishment of branch banks in Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. Any bank, either incorporated or unincorporated, whose principal place of business is located in Barbour County shall have the power to establish, to maintain, and to operate within the limits or boundaries of such county one or more branches or branch banks, branch offices, branch agencies, additional offices, or branch places of business for the receipt of deposits, payment of checks, lending of money and the conduct of a general banking business, provided that such bank, before establishment of any such branch or branches, shall first secure the written consent of the State Superintendent of Banks or the Comptroller of the Currency, as the case may require. Provided further that no such branch shall be located outside the corporate limits of the municipality in which the main bank is located.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:56 P.M.

Act No. 496

S. 943—Harris

AN ACT

To amend the title and Section 1 of Act No. 127, H. 142, Regular Session 1961 (Acts 1961, p. 167) which provides for the election of the municipal governing body in certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 127, H. 142, Regular Session 1961 (Acts 1961, p. 167) is amended to read as follows:

“An Act Relating to the election of the municipal governing body of any city governed by a mayor and council and having a population of not less than 14,250 nor more than 14,365 inhabitants, according to the most recent federal decennial census.”

Section 2. Section 1 of said Act No. 127, H. 142, is amended to read as follows:

“Section 1. In any city in Alabama governed by a mayor and council and having a population of not less than 14,250 nor more than 14,365 inhabitants, according to the most recent federal decennial census, a majority of the votes cast at an election for mayor and members of the city council shall be a prerequisite to election to these respective offices whenever there are more than two candidates for the same office.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 3:57 P.M.

Act No. 497

S. 944—Harris

AN ACT

To amend the title and Section 1 of Act No. 32, H. 30, Special Session 1965 (Acts 1965, p. 49) which provides for expense allowance for members of the boards of education in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 32, H. 30, Special Session 1965 (Acts 1965, p. 49) is amended to read as follows:

“An Act to provide expense allowances for members of the boards of education in all counties having populations of not less than 39,500 nor more than 41,500.”

Section 2. Section 1 of said Act No. 32, H. 30, is amended to read as follows:

"Section 1. In all counties having populations of not less than 39,500 nor more than 41,500, according to the most recent federal decennial census, the members of the county board of education shall each be entitled to ten dollars a day for expenses for each day's attendance on sessions of the board. The allowance provided for in this Act shall be additional and supplemental to all other allowances for expenses and mileage as provided by law, and shall be paid from county school funds."

Section 3. This Act shall become effective September 1, 1971.

Approved August 26, 1971.

Time: 3:58 P.M.

Act No. 498

S. 945—Givhan

AN ACT

To amend Section 6 of Act No. 313, H. 243, approved February 13, 1895 (Acts 1894-5, p. 553), entitled An Act to regulate and prescribe the manner of electing county commissioners of Perry County; so as to regulate further the manner of electing such commissioners and to prescribe their qualifications.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 6 of Act No. 313, H. 243, approved February 13, 1895 (Acts 1894-5, p. 553), entitled An Act to regulate and prescribe the manner of electing county commissioners of Perry County, is hereby amended to read as follows:

"Section 6. Be it further enacted, That no person shall be eligible to election as commissioner unless he is at the time of his qualifications as a candidate for such office a qualified elector and resident of Perry County. All such commissioners shall be elected by the qualified electors of the county at large.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 3:59 P.M.

Act No. 499

H. 471—Casey

AN ACT

To further amend Code of Alabama 1940, Title 51, Section 348, as amended, which relates to the levying of a franchise tax on foreign corporations.

Be It Enacted by the Legislature of Alabama:

Section 1. The Code of Alabama 1940, Title 51, Section 348, as amended, is further amended to read as follows:

Section 348. AMOUNT OF LEVY ON FOREIGN CORPORATIONS; CAPITAL DEFINED; CAPITAL EMPLOYED IN STATE; EXCLUSIONS AND DEDUCTIONS.

A. Amount of levy on foreign corporations. — Every corporation organized under the laws of any other state, nation, or territory and doing business in this state, except strictly benevolent, educational or religious corporations, shall pay annually to the state an annual franchise tax of three dollars (\$3.00) on each one thousand dollars (\$1,000.00) of the actual amount of its capital employed in this state. Corporations which have qualified to do business in this state shall for the purpose of this title prima facie be held to be doing business in Alabama. Provided, however, in no event shall the amount paid by any corporation for annual franchise tax be less than the sum of twenty-five dollars (\$25.00).

B. Definition of capital. — The total capital of such foreign corporation shall be deemed to be an amount equal to the sum of the following:

1. The outstanding capital stock;
2. Surplus and undivided profits, which shall include any amounts designated for the payment of dividends until such amounts are definitely and irrevocably placed to the credit of stockholders subject to withdrawal on demand;
3. The amount of bonds, notes, debentures or other evidences of indebtedness maturing and payable more than one year after the first day of the franchise tax year;
4. The amount of the bonds, notes, debentures or other evidences of indebtedness maturing and payable at any time to (a) any individual stockholder owning directly or indirectly 10% or more of the capital stock of such foreign corporation or (b) another corporation owning more than 50% of the capital stock of such corporation, or (c) another corporation more than 50% of the capital stock of which is owned by such foreign corporation, and which other corporation referred to in (b) or (c) is not also required to pay a franchise tax to the state of Alabama;
5. The amount reasonably required to adjust the depreciable property accounts for any rapid, excessive, or un-

reasonable depreciation charges, or amortization, so as to restore the depreciable property accounts, for franchise tax purposes, to original cost less depreciation computed on the basis of the useful life of such property to the corporation.

C. Determination of capital employed in state. — The actual amount of such total capital as herein defined which is employed in this state shall be determined in accordance with generally accepted accounting principles appropriate in the particular case and such determination shall establish a rebuttable presumption as to the actual amount of capital employed by the corporation in this state; provided, however, that in the case of organizations whose accounts and records are kept according to rules prescribed by a regulatory agency or instrumentality of the United States or by the Alabama public service commission, or by a state insurance department, the actual amount of capital employed in this state as so determined shall in no event exceed the value of the sum of (1) its tangible property located in this state and (2) its intangible property employed in the conduct of its business in this state.

D. Exclusions and deductions. — (1) There shall be excluded from the amount of capital as determined in subsection B the amount invested by the taxpayer in the capital stock of other corporations organized under the laws of Alabama, or under the laws of any other state if such other corporations also pay a franchise tax to the state of Alabama, unless the taxpayer is a dealer in stocks or securities and (2) there shall be deducted from the amount of capital employed in this state as determined in accordance with subsections B and C hereof, the following amounts: (a) The aggregate amount of loans of money made by the taxpayer in this state and which shall be secured by existing mortgage or mortgages to it on real estate in this state and upon which mortgage or mortgages there shall have been paid the recording privilege tax provided by law; (b) the amount invested by the taxpayer in bonds or other securities issued by the state of Alabama, or any county, municipality or other political subdivision of the state of Alabama, unless such corporation is a dealer in securities; and (c) the amount invested by the taxpayer in all devices, identifiable parts of devices, systems and facilities used or placed in operation in the state of Alabama primarily for the protection of the public and the public interest through the control, reduction or elimination of air or water pollution.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 26, 1971.

Time: 4:00 P.M.

Act No. 500 H. 501—Stokes, Wood, Perloff, Roberts, Nettles

AN ACT

To amend Act No. 168 (H. 270) Special Session of 1966, as amended, (Article 8A, Title 55, Code of Alabama as Recompiled and Amended) relating to the Alabama Historical Commission by increasing the Commission membership from fifteen to eighteen persons, by increasing the powers and duties of said Commission and by establishing a state depository for historic items.

Be It Enacted by the Legislature of Alabama:

Section 1. Amend Section 2 of said Act to read as follows:

“Section 2. The purpose of the Alabama Historical Commission, hereinafter referred to as The Commission, shall be to acquire in its own name or in the name of the State of Alabama by purchase, devise, lease, assignment, license, condemnation, gift, bequest, transfer, or otherwise buildings, objects, and sites deemed worthy of being preserved, improved, protected and maintained for or on account of their particular historic, archaeological or architectural significance, including adjacent properties deemed necessary for the proper setting, use and administration of same, and said buildings, objects and sites shall include, but shall not be limited to the following:

(a) Buildings in which events of great significance to Alabama’s or the Nation’s history have taken place, and the sites surrounding them.

(b) Birth places or residences of outstanding personages and the sites surrounding them.

(c) The sites of historic or significant events in Alabama or United States history, including military engagements, Indian treaties and massacres.

(d) Buildings of significant or outstanding architectural value.

(e) Buildings, sites, objects or monuments of special significance to our cultural, military, social, economic, religious or commercial heritage, including post-roads, traces, ruins, railroads, plantations, wharfs, missions, places of treaties, cemeteries, fortifications, and places of worship.

(f) Archaeological sites for excavational, salvage, protective and interpretative purposes.

Section 2. Amend Section 3 of said Act to read as follows:

“Section 3. The Commission shall have the authority to improve, restore, preserve, renovate, maintain, exhibit, repair, rebuild, recreate, and reconstruct its acquisitions and shall have jurisdiction over the same and the exhibits located thereon.

Section 3. Amend Section 4 of said Act to read as follows:

"Section 4. There is hereby established in the State Treasury a fund to be known as the "Alabama State Historic Preservation Fund" into which shall be deposited all monies received by the Commission from admissions, inspection fees, gifts, donations, grants, leases, rentals, bequests, loans, governmental appropriations or any other sources, either public or private. Such funds shall be used by the Commission to pay the costs of the maintenance, acquisitions, preservation and operation of its acquisitions hereinabove referred to and for carrying out any and all of the purposes of this act, including the payment of the salaries of any employees of said Commission and any expenses of said Commission. Money contributed to or deposited in this fund (a) for Capital outlay projects and (b) From any source other than State appropriations for operations shall not revert to the General Fund of the State, but shall remain in the "Preservation Fund" until expended by the Commission.

Section 4. Amend Section 5 of said Act to read as follows:

"Section 5. The Commission may employ on either a part time or full time basis such advisors, architects, engineers, attorneys, real estate appraisers, laborers, artisans, historians, caretakers, guides, technicians, superintendents, stenographers, and administrative employees and supervisory and professional personnel as may be necessary or advisable for carrying out in the most efficient and beneficial manner the purposes and provisions of this Act, and all permanent, full time employees other than the Executive Director, shall be subject to the State Merit System.

Section 5. Amend Section 7 thereof to read as follows:

"Section 7. In addition to the above, the Commission shall have the following duties and powers:

(a) To promote and increase knowledge and understanding of the history of this State from the earliest time to the present, including the Archaeological, Indian, Spanish, British, French, Colonial, Confederate and American eras by adopting and executing general plans, methods and policies for permanently preserving and marking objects, sites, structures and ruins as hereinabove defined.

(b) To promote and assist in the publicizing of the historic resources of the State by preparing and furnishing information to public mass media and to governmental agencies charged with publicity, and to coordinate any of its objectives, efforts or functions with any agency or agencies of the Federal Government, of the State of Alabama, and of other States or

local governments having objectives similar or related to those of the Commission.

(c) To accept for renovation, maintenance, restoration, preservation or management and operation any building or site within the State of Alabama owned by the United States, the State of Alabama or any agency or subdivision thereof or by the National Trust for Historic Preservation, or by natural or corporate persons, public or private, upon such terms and conditions as to the Commission shall be deemed in the best interest of the State of Alabama in conformity with the purposes of this Act.

(d) The Commission shall have the power of eminent domain for the purpose of acquiring historic structures of paramount or exceptional importance, such as those Alabama landmarks eligible for nomination to or recorded in the National Register of Historic Places, provided at least two-thirds of the members of the Commission vote to acquire such structures by the exercise of this measure.

(e) To charge admissions at the various buildings and sites under the control of the Commission throughout the State, and to sell booklets, pamphlets and souvenirs at said locations and to retain and use the proceeds of said sales and admissions for the furtherance of the purposes of the Commission as defined by this Act.

(f) To adopt a seal for the Commission and to use same on its brochures, stationery, and other official publications, and upon its historic site markers.

(g) To maintain an office in a location in the State to be selected by the Commission for the use of the executive director, the employees and the Commission, and to acquire the necessary furniture and equipment therefor.

(h) To prepare, create, purchase and distribute pamphlets and brochures describing the various historic buildings and sites under the jurisdiction of the State of Alabama or any of its agencies.

(i) To make and publish a survey of the buildings, ruins and sites of historic, architectural or archaeological significance within the State of Alabama, and to make available such survey to individuals, institutions and governmental bodies desiring copies of same.

(j) To determine from such survey the buildings, ruins and site listed therein which are considered worthy of permanent preservation to certify same as being worthy, and to publish said list.

(k) To establish criteria for the certification, selection and acquisition of Historic properties for State ownership and for State aid to local Historic site projects.

(l) To nominate selected landmarks with historic, architectural and archaeological significance to the National Register of Historic Places using priorities established by the Commission.

(m) To establish and maintain an Alabama State Historic Preservation Depository into which may be deposited antiques, relics, artifacts, mementos, paintings and other objects contributed to or acquired by the State or the Commission. The Commission shall have the authority to restore these objects and to use them for the furnishing of its own historic buildings and other selected landmarks in Alabama.

(n) To rent or lease any of its acquisitions to public or private agencies.

(o) To publish an informational newsletter which shall periodically report on and promote local, regional and state historic preservation activities.

(p) To produce and publish technical ("how to") manuals on historic preservation.

(q) To publish and present citations and distinguished service awards to selected private and public organizations and individuals for outstanding achievements in preserving the heritage of Alabama.

(r) To purchase, produce, sell, and distribute historic souvenir items.

Section 6. Amend Section 10 of said Act to read as follows:

"Section 10. The Commission shall have the authority to accept the gift of money and real and personal property from any and all public and private sources. Such gifts shall be deductible from Alabama State Income Tax by the donor.

Section 7. Amend Section 11 of said Act to read as follows:

"Section 11. To purchase or otherwise acquire and to erect and maintain "historic markers" on such buildings, roads, trails, routes and sites as it shall designate, and to cooperate with and assist local, regional and state historical groups in selecting and erecting such markers.

Section 8. Amend Section 12 of said Act to read as follows:

"Section 12. The Commission shall not accept, acquire, operate or maintain libraries or museums, except when the same are an integral part of one of the properties owned or managed by the Commission, nor shall the Commission engage in the publishing or printing of "Historical Quarterlies."

Section 9. Amend Section 13 of said Act to read as follows:

"Section 13. The Commission shall consist of eighteen (18) members; one of whom shall be the Governor; one of whom shall be the Lieutenant Governor; one of whom shall be the Speaker of the House of Representatives; one of whom shall be the director of the Department of Archives and History; one of whom shall be the director of the State Department of Publicity and Information; one of whom shall be the director of the Department of Conservation; one of whom shall be the director of the State Building Commission; and eleven (11) other persons to be appointed by the Governor; one of whom shall be selected from a list of three (3) nominees submitted by the Alabama council of the American Institute of Architects; one from a list of three (3) nominees submitted by the Alabama Historical Association; one from a list of three (3) nominees submitted by the Alabama State Chamber of Commerce, one from a list of three (3) nominees submitted by the Alabama Farm Bureau Federation; one from a list of three (3) nominees submitted by the president of the University of Alabama; one from a list of three (3) nominees submitted by the president of Auburn University; one from a list of three (3) nominees submitted by the president of the University of South Alabama; one from a list of three (3) qualified archaeologists nominated by the Alabama Archaeological Society; and three (3) from the state at large. Said nominees and appointees shall be persons who have demonstrated interest in and concern about the preservation of this state's rich history and traditions, and who are conversant with the history of the state and who are qualified to direct and supervise the work of the commission. The members appointed by the Governor shall serve for terms of six (6) years each, except that the term of the members of the first commission shall be three (3) years for one half ($1\frac{1}{2}$) of the members appointed by the Governor and six (6) years for the remaining members. After the expiration of the term of the initial members all members appointed by the Governor shall be appointed for terms of six (6) years each. Any member of the commission may be removed by the Governor for cause, and vacancies in the commission shall be filled by the Governor by the appointment of a competent and qualified person for the unexpired term, from a list of three (3) nominees submitted to him by the organization which originally nominated the member being replaced.

Approved August 26, 1971.

Time: 4:01 P.M.

Act No. 501

S. 457—Lybrand, Clark, Pelham, Fine

AN ACT

To set up an Alabama Health Care Plan; to provide health care insurance for those Alabama citizens not otherwise able to obtain such protection; to allow insurance companies, on a non-profit basis, to organize for the purpose of offering health insurance under the provisions of the plan; to establish, through the Superintendent of Insurance, premium rates and expense provisions; to provide relief from premium tax and recoupment of losses through premium tax exemptions to insurers; to provide for rules and regulations and penalties for those persons wilfully misrepresenting material facts in order to qualify under the provisions of the plan; to provide for the examination of companies and employment of special persons, at no expense to the State, to assist the Superintendent of Insurance in implementation of the plan.

Be It Enacted by the Legislature of Alabama:

Section 1. Title

This Act shall be known as the Alabama Health Care Plan and may be referred to by that designation.

Section 2. Purpose and Legislative Findings.

The Legislature of Alabama takes cognizance of the existence of many Alabama citizens who are unable to obtain adequate health care protection by reason of economic, physical or other related causes. It is the purpose of the Legislature to provide adequate health care protection, through this plan, to those persons not otherwise able to obtain such protection, by insurance companies or voluntary association on a non-profit basis.

Section 3. Insurance companies may form organizations for the purpose of providing health insurance.

Any insurance company authorized and licensed to engage in the business of health insurance in this State may join with one or more other such insurance companies to offer to any resident of this State, who meets the qualifications established by the Superintendent of the Insurance Department, insurance against major financial loss from accident or disease. Such insurance may be offered by such companies in their own names or in the name of a voluntary unincorporated association or other organization formed by such companies, solely for the purpose of this plan. The forms of applications, certifications, policies of such insurance, the applicable premium rates, annual state-

ment and all other information required by the Department of Insurance under Alabama law, for organizations in the business of health insurance, shall be filed with the Superintendent of Insurance for his approval. Any other information which the Superintendent of Insurance deems necessary for the efficient operation of the plan may also be required.

Section 4. Rates and Expenses.

Each company or association electing to come under the provisions of this Act shall charge the same premium for the same insurance coverage and be allowed the same percentage for expense of administration. Such premium rate and percentage for administration expense shall be determined and approved by the Superintendent of Insurance so as to maintain the non-profit basis of the plan.

Section 5. Tax and Losses.

The premiums collected under the provisions of the health care plan are hereby exempt from the payment of premium tax under Article 12 of Chapter 20 of Title 51, Code of Alabama 1940 and Act No. 28, Acts of Alabama, Ex. Sess., 1969, approved May 14, 1969. Any losses suffered, as a direct result of operation under the plan, by those organizations electing to join and operate under the health care plan, may be deducted from the premium tax submitted under the above-mentioned sections, which would normally be paid on individual accident and health insurance premiums collected, but total loss deduction shall not exceed 50% of such premium tax normally payable on premiums from individual accident and health insurance.

Section 6. Superintendent to make rules and regulations concerning insureds and insurers under the plan.

The Superintendent of Insurance shall set up standards and promulgate regulations concerning the qualifications of those Alabama citizens entitled to utilize this plan and no insurance company or association operating under the plan shall allow anyone to be insured under the plan unless that person meets these qualifications. Any wilful material misrepresentation by a person attempting to qualify under the plan shall be a misdemeanor, and upon conviction thereof shall be punishable as prescribed in Title 15, Section 327, Code of Alabama 1940.

The Superintendent of Insurance may also make other necessary rules or regulations and may conduct any examination as to insurers, at any reasonable time and may also, at his discretion, hold public hearings to determine qualifications of prospective insureds, or rates and expenses of insurers in

furtherance of this plan. The Superintendent of Insurance may also employ consultants, actuaries, attorneys or special investigators or examiners to assist him in the regulation of the plan and examination of the insurers and the expense of these special assistants and consultants, along with any regular examination costs, will be borne by the concerned insurer.

Section 7. Severability

The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. Effective date of Act.

This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 30, 1971.

Time: 6:32 P.M.

Act No. 502

H. 2087—Brassell, Adams

AN ACT

Relating to inferior courts in lieu of all justices of the peace in a precinct in all counties having populations of not less than 42,000 nor more than 49,500 according to the most recent federal decennial census; prescribing and regulating the compensation and allowances of the judges of such courts and of the constables serving such courts; and providing for the clerks of the circuit court in such counties to serve as clerks of such inferior courts, prescribing the duties and compensation of such clerks.

Be It Enacted by the Legislature of Alabama:

Section 1. The judge of any court created in lieu of justices of the peace in a named precinct in the county in all counties having populations of not less than 42,000 nor more than 49,500 according to the most recent federal decennial census shall be entitled to receive an expense allowance of \$300 per month for his duties in the criminal division of said court for the remainder of the term for which the incumbent judge has been elected or appointed. Thereafter the salary of the judge of such court shall be \$500 per month for his duties in the criminal division of said court.

The constable who serves any such court shall be entitled to receive an expense allowance of \$50 per month for the remainder of the term for which he has been elected and thereafter such constable shall receive a salary of \$100 per month.

The allowances hereinabove provided for the judge and for the constable shall not be paid past the expiration of the terms for which they have currently been elected and thereafter the salaries hereinabove prescribed shall be their only compensation for their duties in the criminal division of said court. Such expense allowances and salary shall be paid out of the county treasury in the same manner that expense allowances and salaries of other employees of the county are paid.

Section 2. The clerk of the circuit court of the county in which such inferior court is located shall be the clerk of the criminal division of said inferior court. He shall be paid in the manner prescribed by Section 89 of paragraph 2, Title 11 of the Code of Alabama 1940, and in addition he shall be entitled to receive as compensation for his services as clerk of this inferior court the same fees, commissions, percentages, allowances, and other compensation that are or may hereafter be allowed to circuit clerks in the State of Alabama. In making his settlement with the State or with the county, as the case may be, the clerk shall retain such fees, commissions, percentages or allowances from any monies collected as fees, fines and costs in said court. He shall have authority to purchase at county expense such records, stationery, office supplies and equipment as may be necessary to the proper conduct of the court's business. Before entering upon the performance of his duties as clerk of the inferior court he must give bond as required by law for clerks of county courts.

It shall be the duty of the clerk to keep all the records, files and dockets of the criminal division of the inferior court in an orderly manner and perform all other duties required by the judge. The clerk shall also have power and authority to: (1) issue all warrants; (2) administer oaths and take acknowledgments and affidavits; (3) to sign and issue all processes issuing out of the court, including affidavits, summonses, subpoenas, writs, executions, commitments and releases making same returnable to the inferior court; (4) to approve bonds in criminal cases including appeal bonds (5) to certify all appeals and transcripts; (6) to exercise all powers and authority which are now or may be hereafter conferred on clerks of county courts; (7) in the absence of the regular judge, the clerk of the court may, if no special judge has been appointed, accept a defendant's written, sworn plea of guilty and assess against such defendant such fines and costs as may be authorized by law; and any judgment so rendered by the clerk shall have the same force and effect as a judgment rendered by the judge of the court.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains,

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 12:35 P.M.

Act No. 503

H. 2142—Mims, Warren

AN ACT

Relating to Monroe County; levying in such county additional privilege license and excise taxes, paralleling the state sales and use taxes provided for in Act No. 100, H. 94, Second Special Session 1959 (Acts 1959, p. 298), as amended; providing for the collection of such taxes by the State Department of Revenue, and for the distribution and use of the proceeds thereof; providing for the enforcement of the Act; and providing penalties for violations of the Act.

Be It Enacted by the Legislature of Alabama:

Section 1. All words, terms, and phrases that are defined in Act No. 100, H. 94, Second Special Session 1959 (Acts 1959, p. 298), as amended, the state sales tax act, and in Code of Alabama 1940, Title 51, Chapter 20, Article 11, as amended, shall, where used in this Act, have the meanings respectively ascribed to them in said Act No. 100 and Code of Alabama 1940, Title 51, Chapter 20, Article 11, as heretofore amended, except where the context herein clearly indicates a different meaning. In addition, the following words, terms, and phrases, where used in this Act, shall have the following respective meanings except where the context clearly indicates a different meaning:

“State sales tax statutes” means Act No. 100, H. 94, Second Special Session 1959 (Acts 1959, p. 298), which levies a retail sales tax for state purposes, and includes all statutes, including amendments to said Act No. 100, heretofore enacted which expressly set forth any exemptions from the computation of the tax levied in said Act No. 100 and all other statutes heretofore enacted which expressly apply to, or purport to affect, the administration of said Act and the incidence and collection of the tax imposed therein;

“State sales tax” means the tax imposed by the state sales tax statutes;

“State use tax statutes” means Code of Alabama 1940, Title 51, Chapter 20, Article 11, as heretofore amended, including all

statutes heretofore enacted which expressly set forth any exemptions from the computation of the tax levied in said Article 11 and all other statutes heretofore enacted which expressly apply to, or purport to affect, the administration of the said Article and the incidence and collection of the tax imposed therein;

"State use tax" means the tax imposed by the state use tax statutes;

"Registered seller" means the person registered with the State Department of Revenue pursuant to the state use tax statutes or licensed under the state sales tax statutes;

"Month" means the calendar month;

"Quarterly period" means the period of three months ending on the last day of each March, June, September, and December;

"Fiscal year" means the period commencing on October 1 of each calendar year and ending on September 30 of the next succeeding calendar year.

Section 2. There are hereby levied and imposed in Monroe County, in addition to all other taxes of every kind now imposed by law, county privilege or license taxes to be determined by the application of rates against gross sales or gross receipts as the case may be as follows:

1. Upon every person, firm, or corporation (not including the State of Alabama or the Alabama Alcoholic Beverage Control Board or ABC Stores) engaged or continuing within Monroe County in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidence of debt or stocks), an amount equal to **one percent** of the gross proceeds of sales of the business. Any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such businesses at the rates specified when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as a retailer on the gross sales of the business. Provided that where all the sales of a company are single sales of peanut products, milk products, coffee, and confections sold in dispensing machines located in industrial plants or on private property for employees where such machines dispense exclusively articles not to exceed ten cents (10¢) per sale, and the person operating such machines shall be engaged in the business of selling exclusively articles not to exceed ten cents (10¢) per sale and shall file with the State Department of Revenue a sworn statement to that effect and shall keep and

maintain records satisfactory to the the State Department of Revenue, the gross receipts tax herein provided for shall not be levied.

2. Upon every person, firm, or corporation engaged or continuing within Monroe County in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution, or any athletic association thereof, or other association whether such institution or association be denominational, a state, county, or a city school, or other institution, association, or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description, conducted or carried on within Monroe County, an amount equal to **one percent** of the gross receipts of any such business.

3. There are exempted, however, from the provisions of this section and from the computation of the amount of the tax imposed in this section the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state tax statutes from the computation of the amount of the state sales tax. In addition, there shall be exempted from the computation of the amount of tax the gross proceeds of the sale of automotive vehicles, truck trailers, semi-trailers, and house trailers; the gross proceeds of sale of any machine, machinery or equipment either that which is self-propelled or otherwise propelled or drawn and which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment; and the gross proceeds of the sale of machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, including the parts, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

4. An excise tax on the storage, use, or other consumption in Monroe County of tangible personal property purchased at retail, on or after the first day of the second month succeeding the month during which this Act shall become a law, for storage, use, or other consumption in Monroe County, at the rate of **one percent** of the sale price of such property, regardless of whether the retailer is or is not engaged in business in Monroe County or in this State.

5. There are exempted, however, from the provisions of this section and the tax imposed in this section the storage, use, or other consumption of property the storage, use, or other consumption of which is presently exempted under the state use tax statutes from the state use tax. The storage, use, or other consumption in Monroe County of the following tangible personal property is hereby specifically exempted from the tax imposed by this section: automotive vehicles, truck trailers, semi-trailers, and house trailers; any machine, machinery or equipment either that which is self-propelled or otherwise propelled or drawn and which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment; and machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, including the parts, attachments, and replacements therefor which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used. Subject to these exemptions, every person storing or using or otherwise consuming in Monroe County tangible personal property purchased at retail shall be liable for the tax imposed by this section and the liability shall not be extinguished until the tax has been paid by such person as hereby provided; provided, however, that a receipt from a registered seller given pursuant to Section 5 of this Act to the purchaser of any property to be used, stored, or consumed in Monroe County shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

Section 3. The taxes levied by Section 2, subsections 1 and 4, of this Act shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, penalties, fines, punishments and deductions that are applicable to the taxes levied by the state sales and use tax statutes, except where inapplicable or where herein otherwise

provided, including all provisions of the state sales and use tax statutes for enforcement and collection of taxes.

Section 4. The taxes levied in Section 2, subsection 1 of this Act shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues; and the taxes levied in Section 2, subsection 4 of this Act shall be due and payable quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use, or other consumption of the tangible personal property became taxable hereunder, each such quarterly period to end on the last days of each of the months of March, June, September and December. All taxes levied in this Act shall be paid to and collected by the State Department of Revenue at the same time and along with the collection of the state sales tax and the state use tax. On or prior to the due dates of the taxes as herein levied, each person subject to such taxes shall file with the State Department of Revenue a report or return in such form as may be prescribed by the Department, setting forth, with respect to all sales and business that are provided in Section 2, subsection 1 hereof to be used as a measurement of the tax levied in said Section 2, subsection 1 a correct statement of the gross proceeds of all such sales and the gross receipts of all such business and setting forth, with respect to the tax levied in Section 2, subsection 4 hereof, the total sales price of all property, the use, storage, or other consumption of which became subject to the tax imposed by said Section 2, subsection 4 during the then preceding quarterly period; however, that said report shall include also such other items of information pertinent to the said taxes in the amount thereof as the State Department of Revenue may require. All reports or returns filed with the State Department of Revenue under this section shall be available for inspection by the chairman of the Monroe County governing body, or his designated agent at reasonable times during business hours.

Section 5. Every registered seller making sales of tangible personal property for storage, use, or other consumption in Monroe County (which storage, use, or other consumption is not herein exempted from the tax imposed in Section 2, subsection 4 hereof) shall at the time of making such sale or if the storage, use, or other consumption of such tangible personal property in Monroe County is not then taxable under this Act, at the time such storage, use, or other consumption becomes taxable hereunder, collect the tax imposed by Section 2, subsection 4 of this Act from the purchaser, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the State Department of Revenue. On the twentieth day of the month following the close of each quarterly period provided for

in Section 4 hereof, each registered seller shall file with the State Department of Revenue a return for the preceding quarterly period in such form as may be prescribed by the Department showing the total sales of the tangible personal property sold by such registered seller, the storage, use, or other consumption of which became subject to the tax imposed by Section 2, subsection 4 of this Act during the then preceding quarterly period and each return shall be accompanied by a remittance of the amount of the tax herein required to be collected by such registered seller during the period followed by the return. Any person who has paid to a registered seller the tax with respect to the use, storage, or other consumption of tangible personal property in Monroe County need not file a report or make any further payment of the said tax, but each person who purchases tangible personal property, the storage, use, or other consumption of which is subject to the tax imposed by Section 2, subsection 4 of this Act and who has not paid the tax due with respect thereto to a registered seller, shall report and pay the tax as required by Section 4.

Section 6. The State Department of Revenue shall charge Monroe County for collecting said special taxes herein levied by this Act the cost of making such collections, which charge shall not exceed **five percent** of the amount collected. Such charge may be deducted once each month from the special sales and use taxes collected before certifying the amount of special taxes due Monroe County. The Commissioner of Revenue shall pay into the State Treasury all taxes collected under this Act as such taxes are received by the Department of Revenue; and on or before the tenth day of each successive month (commencing with the month following the month in which the Department makes the first collection hereunder), the Commissioner shall certify to the State Comptroller the amount of taxes collected under the provisions of this Act and paid by him into the State Treasury for the benefit of Monroe County during the month immediately preceding the making of such certificate. Provided, however, that before certifying the amount of the taxes paid into the State Treasury for the benefit of Monroe County during each month, the Commissioner may deduct from the taxes collected in said month the charges due the Department for the collection of the taxes for the County. It shall be the duty of the Comptroller to issue his warrant each month payable to the Custodian of Public School Funds, Monroe, County, in an amount equal to the amount so certified by the Commissioner of Revenue as having been collected for the use of Monroe County and paid into the State Treasury.

Section 7. Proceeds from the taxes herein levied shall be used for operating the public schools of Monroe County.

Section 8. All laws or parts of laws which conflict with this Act are repealed.

Section 9. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 10. This Act shall become effective on the first day of the second month succeeding the month during which it becomes law.

Approved August 31, 1971.

Time: 3:00 P.M.

Act No. 504

H. 1235—Mathews

AN ACT

To make additional appropriations to the Board of Corrections for the fiscal year ending September 30, 1971.

Be It Enacted by the Legislature of Alabama:

Section 1. There is appropriated, in addition to all other appropriations heretofore made, the following amounts from the funds designated and for the purposes specified, for the fiscal year ending September 30, 1971.

FROM THE STATE GENERAL FUND

To the Board of Corrections:

For transfer to the Board of Corrections Fund \$295,000.00

Section 2. BOARD OF CORRECTIONS:

For other expenses 118,000.00

The funds hereinabove appropriated in this section to the Board of Corrections shall be paid out of the Board of Corrections Fund and shall include part of the appropriation made in Section 1 hereof.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved August 31, 1971.

Time: 4:50 P.M.

Act No. 505

H. 864—Baker, Chesnut

AN ACT

Proposing an amendment to Article IV, Section 93, as amended, of the Constitution of Alabama relative to providing irrigation and water conservation in the state.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to Article IV, Section 93, as amended, of the Constitution is proposed to become valid as a part of the Constitution when approved by a majority of the qualified electors voting thereon and upon proclamation of the Governor:

Proposed Amendment

"Section 93. The state shall not engage in works of internal improvement, nor lend money or its credit in aid as such, except as may be authorized by the Constitution of Alabama or amendments thereto; nor shall the state be interested in any private or corporate enterprise, or lend money or its credit to to any individual, association, or corporation, except as may be expressly authorized by the Constitution of Alabama, or amendments thereto. When authorized by laws passed by the Legislature the state may, in promoting and aiding in providing irrigation and water conservation engage in works of internal improvement by promoting, developing, constructing, maintaining and operating within the state irrigation projects and facilities related thereto, or it may guarantee the repayment of all or a portion of any loans to any body corporate organized for such purpose under the provisions of Constitutional Amendment CCXXVII and pledge to the payment of such loans the full faith and credit of the State; provided, however, nothing herein shall authorize the state, directly or indirectly, to engage in or finance the production, transmission or sale of electric power."

Section 2. An election upon the proposed amendment is ordered to be held on the first Tuesday after the expiration of three months from final adjournment of the 1971 regular session of the Legislature. The election shall be held in accordance with the provisions of Section 284 and 285 of the Constitution of Alabama, as amended, and Chapter 1, Article 18, Title 17 of the Code of Alabama 1940.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the State. If a newspaper is not published in the county, a copy of the notice shall

be posted at the courthouse and in three other places in the county.

Constitutional Amendment.

Passed the House August 5, 1971.

Passed the Senate August 24, 1971.

Act No. 506 H. 1406—Bowers, Timmons, Adwell, Meeks,
Boutwell, Ellis, Weeks, Dill,
Erdreich, Falkenburg, Jones (E),
Parker (H), Doss, Wallace,
Gafford

AN ACT

TO PROPOSE AN AMENDMENT OF AMENDMENT CCXXXIX OF THE CONSTITUTION OF ALABAMA OF 1901, PROVIDING FOR THE CREATION OF FIRE PROTECTION OR GARBAGE AND TRASH DISPOSAL DISTRICTS IN JEFFERSON COUNTY.

Be It Enacted by the Legislature of Alabama:

Section 1. The following Amendment of Amendment CCXXXIX of the Constitution of Alabama of 1901 is proposed to become valid as a part of said Constitution when approved and proclaimed as prescribed by law.

AMENDMENT

“Amendment CCXXXIX of the Constitution of Alabama. The legislature may provide for the formation of districts in Jefferson County, Alabama, for establishing and maintaining a system for fighting or preventing fires, also for the collection and disposal of garbage and trash; provided, however, that no territory lying within the limits of a municipal corporation at the time of the establishment of any such district shall be included within such district; and provided further, that no such district shall be established unless the establishment thereof has been first approved by the qualified electors residing within the proposed district at an election held as provided for by a law or laws adopted by the legislature. A district may be established for either or both of the aforesaid purposes. The legislature may provide for submitting to the qualified electors within the proposed district the question of whether the district shall be created for either or both of the aforesaid purposes.

“The expenses of establishing and maintaining any such fire-fighting and fire prevention system or any such garbage collection and disposal system in a district, as the case may be,

shall be paid for exclusively by the proceeds of a service charge, which shall be levied and collected in an amount sufficient to pay the said expenses.

"Said service charges shall be levied upon and collected from the persons and property to whom and to which such services are available; and the service charge shall be a lien upon any such property.

"The legislature may provide for the enlargement of a district by the addition of territory thereto, subject to the following conditions: (1) No territory lying within a municipal corporation at the time of such enlargement shall be added to a district; (2) subject to (3), next below, no territory shall be added unless the qualified electors thereof have approved the addition of such territory to the district; (3) the legislature may provide a procedure whereby territory will be included in a district upon the written petition for its inclusion signed by at least seventy percent (70%) of the qualified electors residing within said territory.

"The legislature shall adopt laws providing for the administration of the affairs of the district by the governing body of the district, the governing body of the county or by any agency of the county, and empowering the body administering the affairs of the district to levy and collect the service charge, subject to such restrictions and conditions as the legislature imposes. The legislature may provide that any such service charge shall not become effective unless approved by the electors of the territory, and may provide the conditions on which an election on such service charge shall be held.

"The legislature shall be authorized to enact laws providing for the collection and enforcement of the service charges and of the lien for such charges.

"The legislature may provide for the issuance of bonds for such districts with or without an election; provided, however, that all bonds issued hereunder shall be payable only out of the proceeds of the service charge authorized hereby, and no such bond shall be a general obligation of the county."

Section 2. An election upon this proposed amendment shall be held on the date of the first primary, general or special election held after the expiration of three months from the final adjournment of the current session of the legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama, as amended, and Chapter 1, Article 18, Title 17, of the Code of Alabama (1940).

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the State. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

Constitutional Amendment.

Passed the House August 5, 1971.

Passed the Senate August 24, 1971.

Act No. 507

H. 285—Smith (P), Turnham

AN ACT

To propose an amendment to the Constitution of Alabama authorizing the Legislature to provide for the promotion of production, distribution, marketing, use, improvement and sale of milk and milk products.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is proposed, to become a part thereof when approved by a majority of the qualified electors voting thereon as prescribed by law and upon proclamation by the Governor:

AMENDMENT

Notwithstanding any other provisions of this Constitution, the Legislature may hereafter by general law provide for the promotion of the production, distribution, marketing, use, improvement and sale of milk and milk products. The Legislature may provide for the promotion of milk and milk products and the milk industry by research, education, advertising and other methods; and, the Legislature is also authorized to provide means and methods for financing of any such promotional activity by prescribing a procedure whereby producers of milk may by referendum held among such producers levy upon themselves monetary assessments or charges to be deducted from their sales of milk and milk products for the financing of any such promotional program or activity in cooperation with distributors, processors, dealers, handlers and others who purchase or otherwise acquire milk from producers thereof. Provided, no assessment levied upon milk producers shall exceed two per cent (2%) of the gross sale price of milk sold by producers. The Legislature is authorized to make provisions for the refund of any assessments levied upon producers of milk who do not desire to par-

ticipate in the promotional program. The Legislature shall provide for the collection, distribution and disbursement of assessments or charges as authorized hereunder, and is also authorized to provide that distributors, processors, dealers and handlers of milk shall collect any such assessments or charges with enforcement and penalty provisions for failure to make such collection and distribution of assessments. The Legislature shall provide for the designation of a non-profit association or organization organized for promotion and betterment of the milk and dairy industry in Alabama to administer and carry out such promotional program which shall include conducting elections or referendums among milk producers. The Legislature shall further provide for the deposit, withdrawal and disbursement by the designated association of any funds received from assessments subject to the supervision of the activities authorized herein by the Commissioner of Agriculture and Industries and the State Board of Agriculture and Industries. The Legislature may also provide that the Commissioner of Agriculture and Industries and the State Board of Agriculture and Industries shall perform such other duties, functions and requirements as may be necessary to effectuate the intent and purpose of this amendment to the end that a milk and milk products promotional program may be established under authority hereof. Assessments, fees or other charges collected as authorized by any legislative act adopted under authority hereof shall not be considered as a tax within the meaning of this Constitution or any provision thereof. Any uniformity requirements of this Constitution shall be satisfied by the application of the program upon milk and milk products.

Section 2. An election on the proposed amendment is ordered to be held on the first Tuesday after the expiration of three (3) months from final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Section 284 and 285 of the Constitution of Alabama of 1901, as amended, and Chapter 1, Article 18, Title 17, Code of Alabama of 1940, together with any other statutes applicable thereto.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation by the Governor published once a week for four (4) successive weeks next preceding the day designated herein for the election in a newspaper in each county in the State. In any county in which no newspaper is published, a copy of said proclamation shall be published in each county courthouse therein.

Constitutional Amendment.

Passed the House June 15, 1971.

Passed the Senate August 26, 1971.

Act No. 508

H.184—Smith (P), Grainger, Lutz, King, Hearn, Connell, Benton, Carter, Lang, Edwards, Boutwell, Dill, Kinsey, Burgess, McDonald, Headley, Jackson, Crowe, Merrill, Williams, Turnham, Waggoner, Bassett, Therrell, Barkett, Brassell, Pruitt, Snell, Bank, Drake, Mathews, Hardin, Casey, Agee, McCluskey, Wise, O'Daniel, Gloor, Jones (F), Nettles, Harris, Hale, Slate, Owens, Reed (T), Wallace, Cauthen, McBride, Hill, Waldrop, Chesnut, Baker, Parker (T), Ellis, Turner, Falkenburg, Parker (H), Wynot

AN ACT

To propose an amendment to the Constitution of Alabama authorizing the Legislature to provide for promotion of production, distribution, marketing, use, improvement and sale of soybeans.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is proposed, to become a part thereof when approved by a majority of the qualified electors voting thereon as prescribed by law and upon proclamation by the Governor:

AMENDMENT:

The Legislature may hereafter, by general law, provide for the promotion of the production, distribution, improvement, marketing, use and sale of soybeans. The Legislature may provide for the promotion of soybeans and soybean products by research, education, advertising and other methods, and the Legislature is further authorized to provide means and methods for the financing of any such promotional activity by prescribing a procedure whereby producers of soybeans may by referendum among such producers levy upon themselves and collect assessments, fees, or charges upon the sale of soybeans for the financing of any such promotional program or activity in cooperation with buyers, processors, dealers, and handlers of soybeans. Provided, no assessment levied hereunder shall exceed one-half cent ($1\frac{1}{2}\text{¢}$) per bushel on any soybeans sold by

producers thereof. The Legislature may make provisions for the non-payment of assessments by soybean producers, and shall make provisions for the refund of assessments to any soybean producer who does not desire to participate in an assessment program. The Legislature shall provide for the collection, disbursement, distribution or expenditure of assessments or charges authorized hereunder and to provide penalties for failure to make collection and distribution of assessments. The Legislature shall provide for the designation of a nonprofit association or organization for the promotion and betterment of soybeans and soybean products to administer and carry out such promotional program which shall include the conducting of elections or referendums among producers of soybeans. The Legislature may provide the manner by which such referendum is held, including the procedure for application for approval to conduct the referendum, the appropriate action to be taken by the State Board of Agriculture and Industries on such application, the requirements and eligibility of the association or organization which will conduct such referendum, the procedures for voting and eligibility to vote in such referendum, the details of the conduct of such referendum. The Legislature shall further provide for the deposit, withdrawal, disbursement and expenditure by the designated association of any funds received subject to the supervision and control of the activities as authorized herein by the Department of Agriculture and Industries and the State Board of Agriculture and Industries. The Legislature shall further provide a procedure whereby said association or organization is bonded, for the examination and auditing of said association or organization, and for reasonably necessary rules and regulations to be adopted by the State Board of Agriculture and Industries to effectively carry out the intent and purposes herein enumerated. Assessments, fees or other charges collected as authorized by any legislative act adopted under authority hereof shall not be considered as a tax within the meaning of this Constitution or any provision thereof. Any uniformity requirements of this Constitution shall be satisfied by the application of the program upon soybeans.

Section 2. An election on the proposed amendment is ordered to be held on the first Tuesday after the expiration of three (3) months from final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and Chapter 1, Article 18, Title 17, Code of Alabama 1940, together with any other statutes applicable thereto.

Section 3. Notice of the election and of the proposed amendment shall be given by proclamation by the Governor published once a week for four (4) successive weeks next preceding the

day designated herein for the election in a newspaper in each county in the State. In any county in which no newspaper is published, a copy of said proclamation shall be published in each county court house therein.

Constitutional Amendment.

Passed the House June 15, 1971.

Passed the Senate August 24, 1971.

Act No. 509

H. 2137—Meeks, Erdreich, Falkenburg

AN ACT

To propose an amendment to the Constitution of Alabama authorizing the Mountain Brook School District in Jefferson County to levy and collect, subject to approval of the qualified electors of the said district, a special district ad valorem tax for public school purposes in the said district.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama is hereby proposed:

In addition to all taxes now authorized or that may hereafter be authorized by the Constitution of Alabama to be levied by the special school district in Jefferson County known as the Mountain Brook School District (which immediately prior to the adoption of this amendment comprised the territory embraced within the corporate limits of the City of Mountain Brook), including any additional territory that may hereafter be added to the said district, shall have power to levy and collect, for public school purposes in the said district, a special district ad valorem tax at a rate or rates not exceeding in the aggregate sixty cents on each one hundred dollars (equivalent to six mills on each dollar) of the assessed valuation of the property in the said district subject to taxation by it.

No tax shall be levied under the authority of this amendment until after the question of the levy of such tax, the rate thereof, the time it is to continue, and the purpose thereof shall have been first submitted to the vote of the qualified electors of the said district at an election duly called for that purpose by the governing body of the said county and a majority of the qualified electors of the said district voting at such election shall have voted in favor of the levy of the said tax; provided, that if a majority of the qualified electors of the said district participating in the election on the adoption of this amendment shall vote for such adoption, then the approval of this amend-

ment expressed by the said vote in favor of its adoption shall of itself constitute approval of the levy of the said tax at the rate of sixty cents on each one hundred dollars of the said assessed valuation for a period of thirty years commencing with the levy for the tax year for which county ad valorem taxes will become due and payable on the October 1 next succeeding the date of such election and no additional election by the electors of the said district shall be required to authorize the levy of the said tax at the said rate and for the said period of time. If the majority of the qualified electors of the said district participating in the election on the adoption of this amendment should not vote for such adoption, or if the majority of the qualified electors of the said district voting at any election subsequently called by the governing body of the said county under the provisions of this amendment should not vote in favor of the levy of the said tax at an election so called, the governing body of the county may from time to time call other elections hereunder on the question of the levy of the said tax, but not more than one such election shall be held during any period of twelve consecutive months.

Each election that may be called by the governing body of the said county on the question of the levy of the district tax herein authorized shall be called and held and the results thereof declared in the same manner and at the same times as may be provided by law for the calling and holding of school district taxes generally, and the said tax shall be levied and collected in the same manner and at the same times as may be provided by law for the levy and collection of school district taxes generally; provided, that no county wide tax shall be required as a condition precedent to the calling or holding of any such election or to the levy or collection of the district tax herein authorized. The proceeds from any district tax levied under this amendment shall be expended solely for public school purposes in the said district.

Section 2. An election upon the proposed amendment is hereby ordered to be held on the first Tuesday following the expiration of three months after the final adjournment of the current regular session of the Legislature of Alabama. At the said election all qualified electors of the state shall be entitled to vote on the said proposed amendment, and on the official ballot provided for such election there shall be printed the following: "Shall the following be adopted as an amendment to the Constitution of Alabama?" after which there shall be set forth the substance or subject matter of the amendment proposed in Section 1 of this act, and after which there shall be printed the word "yes" and immediately under that word there shall be printed the word "no". Space shall be provided on

each ballot for the elector to indicate his choice by a cross mark opposite the word expressing his choice.

Section 3. Notice of the election on the proposed amendment shall be given by proclamation of the Governor published in a newspaper in each county in the state once a week for four successive weeks next preceding the day herein appointed for the election, and in any county in which there may be no newspaper published the notice shall be published either (a) by posting a copy of the said proclamation at each courthouse in such county, or (b) by publication in a newspaper published in another county that is circulated in the county in which no newspaper is then published. There is hereby appropriated out of the General Fund of the state such sum as may be necessary to defray the expenses of the election.

Constitutional Amendment.

Passed the House August 17, 1971.

Passed the Senate August 26, 1971.

Act No. 510 H. 1025—Timmons, Jones (E), Meeks, Adwell, Ellis, Wallace, Erdreich, Parker (H), Waggoner, Dill, Bowers, Doss, Falkenburg, Weeks, McBride, Boles, Gloor

AN ACT

TO AMEND ACT NO. 22 OF THE SECOND SPECIAL SESSION OF 1956, APPROVED MARCH 23, 1956 (ALA. ACTS, SPECIAL SESSIONS OF 1956, PAGE 290 ET SEQ.), RELATING TO DEDUCTIONS FROM SALARY AND RIGHTS AND BENEFITS AND PENSIONS AND RELIEF OF MEMBERS AND FORMER MEMBERS OF THE FIRE DEPARTMENT OF THE CITY OF BIRMINGHAM AND THEIR EXISTING AND FORMER DEPENDENTS UNDER ACT NO. 307 OF THE REGULAR SESSION OF THE LEGISLATURE OF ALABAMA OF 1943, APPROVED JUNE 28, 1943 (GENERAL ACTS ALABAMA 1943, PAGE 264) AND THE PREDECESSORS OF SAID ACT.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Definitions. As used herein the following terms have the meanings hereby ascribed to them unless a different meaning is apparent from the context: "Act 307" means Act No. 307 of the Regular Session of the Legislature of Alabama of 1943, approved June 28, 1943, (Ala. Acts, 1943, p. 264, et seq.); "Act 22" means Act No. 22 of the Second Special Session of the Legislature of Alabama of 1956, approved March 23, 1956, (Ala. Acts, Special Sessions of 1956, p. 290, et seq.);

"The City" means the City of Birmingham, Alabama; "retired firemen" means firemen retired under Act 307.

(b) Background and Purpose of this Act. Act 307, adopted in 1943, established pensions for Birmingham firemen entering the service of the City prior to September 19, 1939. Act 307 provided that all pensions provided for thereby "shall be on a graduating scale and shall increase or decrease in accord with the increase or decrease of the salaries of active members of such fire department". Act 22, approved March 23, 1956, amended Act 307, so as to provide that pensions thereunder shall not be based upon salaries higher than those in effect in the fire department on December 31, 1955.

The effect of Act 22 was to prevent the provision graduating firemen's pensions from applying to any increases in salaries in the fire department which have occurred during the fifteen years elapsing since adoption of Act 22.

Many firemen retired under Act 307, when that act provided for pensions in the fire department to graduate, (that is, to increase or decrease) in accordance with salaries of active members of the fire department. By establishing salaries in effect on December 31, 1955, as the ceiling for calculating pensions, Act 22 deprived many retired firemen of increases in their pensions to which they were entitled under the Act in effect when they retired.

Because the cost of living and the salaries of active members of the fire department have increased very substantially since December 31, 1955, it is fair and appropriate that Act 22 be amended so as to provide a more equitable and realistic ceiling for pensions for firemen retiring under Act 307.

The purpose of this Act is to establish salaries in effect on September 1, 1964, as the ceiling for computing pensions payable under said Act 307.

Section 2. Section 1 of Act No. 22 of the Second Special Session of 1956, approved March 23, 1956 (Ala. Acts, Special Sessions of 1956, page 290 et seq.) is hereby amended so as to read as follows:

Section 1. No pension or relief or benefit shall be payable or paid under Act No. 307 of the Regular Session of the Legislature of Alabama of 1943, approved June 28, 1943 (General Acts Alabama 1943, page 264), or any predecessor of said act, to any member or former member of the Fire Department of the City of Birmingham who is absent from active duty with said fire department at the effective date of this act on account of retirement or disability for any period after the effective date of this act during which he remains absent from active

duty with said fire department on account of retirement or disability based or computed in whole or in part upon a salary or rate of compensation higher than the salary or rate of compensation attached at September 1, 1964, to the class of positions to which belongs the position occupied by such member at the time of the commencement of such absence; provided that the monthly amount of any such pension or relief or benefit of a first, second or third class fireman within the meaning of Section 25 of Section 1 of said Act No. 307 shall not be less than the amount of \$125 or an amount equal to the monthly amount provided under the provisions of Section 13 of Section 1 of Act No. 283 of the Regular Session of the Legislature of Alabama of 1943, approved June 28, 1943 (General Acts Alabama 1943, page 241) as such act has been heretofore or hereafter amended, for members of the system established by said act, whichever monthly amount is greater; and provided further that the monthly amount of any such pension or relief or benefit of a higher salaried member than a first, second and third class fireman, within the meaning of Section 25 of Section 1 of said Act No. 307, shall not be less than the amount of \$125 plus ten per cent (10%) of the amount of the difference between the salary at September 1, 1964 of the class of positions to which belongs the position occupied by such higher salaried members and the salary at September 1, 1964 of a first class fireman within the meaning of said Section 25 of Section 1 of said Act No. 307 or an amount equal to the monthly amount provided under the provisions of Section 13 of Section 1 of Act No. 283 of the Regular Session of the Legislature of Alabama of 1943; approved June 28, 1943 (General Acts Alabama 1943, page 241) as such act has been heretofore or hereafter amended, for members of the system established by said act, plus ten per cent (10%) of the amount of the difference between the salary at September 1, 1964 of the class of positions to which belongs the position occupied by such higher salaried member and the salary at September 1, 1964 of a first class fireman within the meaning of said Section 25 of Section 1 of said Act No. 307, whichever monthly amount is greater.

Section 3. Section 2 of Act No. 22 of the 1956 Special Sessions of 1956, approved March 23, 1956 (Ala. Acts Special Sessions of 1956, page 290, et seq.) is hereby amended so as to read as follows:

Section 2. No pension or relief or benefit shall be payable or paid under the aforesaid Act No. 307 or any predecessor thereof to any member or former member of the Fire Department of the City of Birmingham who may become absent from active duty with said fire department after the effective date of this act on account of retirement or disability for any period after the commencement of such absence during which he may

be absent from active duty with said fire department on account of retirement or disability based or computed in whole or in part upon a salary or rate of compensation higher than the salary or rate of compensation attached at September 1, 1964 to the class of positions to which belongs the position occupied by such member at the time of the commencement of such absence, provided that the monthly amount of any such pension or relief or benefit of a first, second or third class fireman, within the meaning of Section 25 of Section 1 of said Act No. 307, shall not be less than the amount of \$125 or an amount equal to the monthly amount provided under the provisions of Section 13 of Section 1 of Act No. 283 of the Regular Session of the Legislature of Alabama of 1943, approved June 28, 1943 (General Acts Alabama 1943, page 241) as such act has been heretofore or hereafter amended, for members of the system established by said act, whichever monthly amount is greater; and provided further that the monthly amount of any such pension or relief or benefit of a higher salaried member than a first, second or third class fireman, within the meaning of Section 25 of Section 1 of said Act No. 307, shall not be less than the amount of \$125, plus ten per cent (10%) of the amount of the difference between the salary at September 1, 1964 of the class of positions to which belongs the position occupied by such higher salaried member and the salary at September 1, 1964 of a first class fireman within the meaning of said Section 25 of Section 1 of said Act No. 307, or an amount equal to the monthly amount provided under the provisions of Section 13 of Section 1 of Act No. 283 of the Regular Session of the Legislature of Alabama of 1943, approved June 28, 1943 (General Acts Alabama 1943, page 241), as such act has been heretofore or hereafter amended, for members of the system established by said act, plus ten per cent (10%) of the amount of the difference between the salary at September 1, 1964 of the class of positions to which belongs the position occupied by such higher salaried member and the salary at September 1, 1964 of a first class fireman within the meaning of said Section 25 of Section 1 of said Act No. 307, whichever monthly amount is greater.

Section 4. Section 3 of Act No. 22 of the 1956 Special Sessions of 1956, approved March 23, 1956 (Ala. Acts Special Sessions of 1956, page 290, et seq.) is hereby amended so as to read as follows:

Section 3. In the event that the pension, or relief or benefit payable to any member or former member of the Fire Department of the City of Birmingham otherwise payable under Act No. 307 of the Regular Session of the Legislature of Alabama of 1943, approved June 28, 1943, or any predecessor of said act, is either not increased or is reduced, by reason of the

application of Section 1 or Section 2 of this act, no future reduction in the salary or rate of compensation upon which such pension or relief or benefit is based or computed shall reduce the maximum amount of such pension, relief or benefit until such salary or rate of compensation upon which such pension, relief or benefit is based or computed shall be reduced below the rate attached thereto at September 1, 1964; and then and thereafter such pension, relief or benefit shall be based or computed as provided in Section 25 of Section 1 of said Act No. 307 of 1943, or any applicable predecessor of said act, until one of the provisions of Section 1 or Section 2 of this act which provides for a minimum pension, relief or benefit shall become operative as again limiting the applicability of said Act No. 307 of 1943, or any predecessor act, to such pension or relief or benefit, or until such salary or rate of compensation upon which such pension, relief or benefit is based or computed shall again exceed the rate attached thereto at September 1, 1964.

Section 5. Section 6 of Act No. 22 of the 1956 Special Sessions of 1956, approved March 23, 1956 (Ala. Acts Special Sessions of 1956, page 290, et seq.) is hereby amended so as to read as follows:

Section 6. In lieu of any deduction from the salary of any member of said fire department as provided by subdivision B of Section 11 of Section 1 of said Act No. 307 as amended by Section III of said act there shall be deducted, after the effective date of this act for the benefit of the fund referred to in said subdivision B, from the salary of each such member of said fire department as the same becomes payable an amount equal to six per centum (6%) thereof; provided, however, that for the purpose of such deduction the amount of such salary shall not be deemed to be higher than the salary attached at September 1, 1964 to the class of positions to which belongs the position occupied by such member at the time of earning of the salary from which deduction is made; and provided further that if a member receives a salary for a position, office or class of work in said fire department which position, office or class of work did not exist in said department at September 1, 1964, then the amount of such salary from which such deduction is made shall not be deemed to be higher than the salary paid for the performance of similar duties in said fire department at September 1, 1964, and in case such amount of salary is not determinable or there were no similar duties in said fire department on said date, then the Board of Trustees of the Firemen's Pension and Relief Fund, referred to in Section 10 of Section 1 of said Act No. 307, shall determine and amount of salary which in its judgment would have been paid at September 1, 1964 for the performance of such similar duties in said fire department and the salary for such a position, office or class

of work for the purpose of such deduction shall not be in excess of the amount so determined.

Section 6. This Act shall become effective on the first day of that calendar month next succeeding the calendar month in which the Act is adopted, or otherwise becomes a law.

Approved August 31, 1971.

Time: 6:20 P.M.

Act No. 511

H.J.R. 139—Jones (F)

HOUSE JOINT RESOLUTION

WELCOMING THE FREE CHINESE PING PONG TEAM TO THE UNITED STATES

WHEREAS the Free Chinese Ping Pong Team is currently in the United States on a most successful good will tour of the United States; and

WHEREAS this attractive group of skilled young players has not only exhibited the finest sportsmanship throughout its successful participation in this highly competitive sport which requires intensive concentration and individual effort, but the personal charm of its individual members and clear adherence to high principles is characteristic of the people they represent; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the State of Alabama most cordially welcomes the Free Chinese Ping Pong Team to the United States, and assures these ambassadors of good will that this State stands with Nationalist China in its desire to maintain its freedom and independence.

Approved August 31, 1971.

Time: 9:00 A.M.

Act No. 512

H.J.R. 140—Lyons, Hale, Lutz, King, Grainger,
Hearn

HOUSE JOINT RESOLUTION

COMMENDING ASTRONAUTS SCOTT, IRWIN AND WORDEN FOR THE SUCCESS OF THE APOLLO 15 FLIGHT.

WHEREAS the flight of Apollo 15 has been termed by leading astrophysicists to be the most valuable and most comprehensive scientific mission ever accomplished; and

WHEREAS astronauts David R. Scott and James B. Irwin collected invaluable information while covering extensive areas of the surface of the Moon, during which time astronaut Alfred Worden took high quality photographs and instrument readings from the command ship, "Endeavour", while in lunar orbit; and

WHEREAS the immense variety of materials and information collected by the Apollo 15 team is expected to make it possible to understand and possibly control such events as earthquakes, to discover hidden resources inside the Earth and to harness untapped reserves of geothermal energy; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend astronauts Scott, Irwin and Worden for their most successful mission and assure them that we are most grateful to them for their invaluable contributions to science and humanity.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to astronauts David R. Scott, James B. Irwin and Alfred Worden.

Approved August 31, 1971.

Time: 9:01 A.M.

Act No. 513 H.J.R. 142—Grainger, Lutz, King, Hearn, Hale
HOUSE JOINT RESOLUTION

WHEREAS, another milestone has been added to the achievements of America and Huntsville's Marshall Space Flight Center with the successful use of a four-wheeled transportation unit to explore the mountains of the moon. Successes succeed successes in America's space program with each new mission and, moreover, knowledge expands—and kindles the American spirit for greater knowledge. It is not merely the question of national pride, nor of glory in achievement, nor the challenge of a new frontier, nor even the necessity of having a surpassing space capability as a means of national defense in an area of obvious military possibilities. It is the compelling need for knowledge which is the basic justification for the adventures in space — knowledge which can fortify humankind for the

unknowns of the future. As knowledge grows on knowledge, practical benefits on earth multiply almost unnoticed; and

WHEREAS, Alabama has stood at the forefront of America's scientific quest for knowledge through the leadership of the Marshall Space Flight Center throughout a decade of achievement. It was entirely fitting that when on August 7, 1971 Apollo 15 Astronauts David Scott and James Irwin cancelled America's new space achievement postage stamp at a make-shift "postoffice" on the moon, it was at Huntsville's Marshall Space Flight Center that the most popular stamp ever printed received its official "earth" dedication by Postmaster General Winton M. Blount on its first date of issue; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body takes immeasurable pride in Alabama's leadership in America's quest for knowledge, signified through a decade of space achievement. We salute and support America's space program, looking toward a new decade in space which will extend still further the frontiers of knowledge in the same spirit of discovery and determination for achievement which has brought our nation to the proud position of the greatest of all nations.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the President of the United States, the Director of the National Aeronautics and Space Administration, the Director of the Marshall Space Flight Center, the Alabama Space and Rocket Center, and the Postmaster General.

Approved August 31, 1971.

Time: 9:02 A.M.

Act No. 514

H.J.R. 144—May

HOUSE JOINT RESOLUTION

WHEREAS, Mr. Novy Lee Hale passed away in Mobile, Alabama on November 14, 1970 of angioblastic cerebral sarcoma, hypertensive cardiovascular disease and other causes and

WHEREAS, Mr. Hale served the prison system of the State of Alabama and the people of this state faithfully, ably and well for over thirty years rising through the ranks from the position of "field guard" to that of "warden" of the Atmore Prison Farm and was highly regarded professionally and as a citizen active in the affairs of Escambia County, Alabama where he will be sorely missed by his family and a host of friends;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body express to the family of Mr. Hale its sincere appreciation for the long and faithful service of Novy Lee Hale to the State of Alabama and its people and notes with profound sorrow the passing of Mr. Hale and extends its sincere sympathy to his sons, Clark Hale of McComb, Mississippi; Rodney Hale of Atlanta, Georgia, Douglas Hale of Atmore, Alabama, Donald Beasley of Pensacola, Florida, and to his daughters Mrs. Sue Duncan, Hopkinsville, Kentucky; Mrs. Sandra O'Brian of Hawaii and Miss Linda Hale of Atmore and to his mother Mrs. A. A. Hale of Atmore, Alabama and to his brother Mr. John Hale of Atmore, Alabama and to other members of his family to whom copies of this resolution shall be sent.

Approved August 31, 1971.

Time: 9:03 A.M.

Act No. 515

H.J.R. 147—Crowe

HOUSE JOINT RESOLUTION

PROCLAIMING OCTOBER 10, 1971 AS HONEY SUNDAY

WHEREAS the health and welfare of all Alabamians are important to the dynamic growth of the State; and

WHEREAS mental retardation is recognized as a problem of more than one hundred thousand Alabama children and adults; and

WHEREAS the Alabama Jaycees are an organization of young men who have demonstrated a compassionate interest in the mentally retarded and have, therefore, embarked upon a program to provide funds for State and local mental retardation projects, now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Sunday, October 10, 1971, be proclaimed as Honey Sunday in Alabama, and we do call upon all Alabamians to support this program and especially do we call upon Alabama Jaycees and all others connected with mental retardation projects, programs and institutions to give every effort to insure complete success of this most worthy and worthwhile project.

Approved August 31, 1971.

Time: 9:04 A.M.

Act No. 516 H.J.R. 149—Merrill, Adams, Adwell, Agee, Baker, Bank, Barkett, Bassett, Benton, Boles, Brassell, Burgess, Callahan, Carnes, Carter, Casey, Cauthen, Cherner, Chesnut, Collins, Coshatt, Cottingham, Crawford, Cross, Crowe, Culver, Dill, Doss, Downing, Drake, Easters, Edwards, Ellis, Falkenburg, Fite, Flipppo, Gafford, Gloor, Goodwin, Grainger, Gray (F), Grey (D), Hardin, Harris, Headley, Hearn, Hill, Jackson, Jones (E), Jones (F), King, Kinsey, Lutz, Lyons, McBride, McCluskey, McCorquodale, McDonald, Manley, May, Meeks, Mims, Naramore, Nettles, O'Daniel, Owens, Parker (T), Perloff, Pruitt, Reed (T), Reid (R), Reynolds, Roberts, Robertson, St. John, Slate, Smith (K), Snell, Stewart, Stokes, Straiton, Stubbs, Taylor, Therrell, Timmons, Turner, Turnham, Waggoner, Waldrop, Wallace, Warren, Weeks, Williams, Wise, Wood, Wynot

HOUSE JOINT RESOLUTION

EXTENDING TO MR. CHARLES MILLER ALL BEST WISHES FOR HIS EARLY AND COMPLETE RECOVERY

WHEREAS our long time good and valued friend, Mr. Charlie Miller, is currently hospitalized following surgery; and

WHEREAS we not only have greatly missed Mr. Charlie's customary warm friendly greeting each morning, and the bright boutonniere, daily changing in variety, which adorns his lapel, but we have also missed him; and

WHEREAS this body is every mindful and deeply appreciative of the many kind and thoughtful considerations which Mr. Charlie has extended to each of its individual members; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we sincerely regret Mr. Charlie's illness and extend to him every best wish for a speedy and complete recovery.

RESOLVED FURTHER That a copy of this resolution be sent to Mr. Miller.

Approved August 31, 1971.

Time: 9:05 A.M.

Act No. 517

H.J.R. 152—Cauthen, Slate, Carter, Crowe,
Hearn

HOUSE JOINT RESOLUTION

BE IT RESOLVED by the Legislature of Alabama, both houses thereof concurring, as follows:

WHEREAS, Carlton Kelley has served as the first and only president of John C. Calhoun State Technical Junior College in Limestone County; and

WHEREAS, Dr. Kelley has, with distinction, loyally, faithfully and effectively served this school, its students and the residents of the geographical area served by said school; and

WHEREAS, there has just been completed a gymnasium at said school, and the Legislature desires to honor Dr. Carlton Kelley by designating said structure "The Carlton Kelley Gymnasium";

NOW, THEREFORE, BE IT FURTHER RESOLVED that the new gymnasium recently completed at John T. Calhoun State Technical Junior College be and hereby is designated and named "The Carlton Kelley Gymnasium".

BE IT FURTHER RESOLVED that a copy of this act be forwarded to the appropriate official at said school for such dedicatory ceremony as may be appropriate, and to Dr. Kelley.

Approved August 31, 1971.

Time: 9:06 A.M.

Act No. 518

H.J.R. 153—Cottingham

HOUSE JOINT RESOLUTION

WHEREAS, Selma, Alabama, in Dallas County has the distinction of having at one time both United States Senators for the State of Alabama to be residents thereof, which cannot be claimed by any other city; and

WHEREAS, There is a bridge in Selma, Alabama, named after one of said Senators, Mr. Edmund Pettus; and

WHEREAS, Another bridge has now been constructed in Dallas County, and many of the citizenry of Dallas County have requested that said bridge be named after the other United States Senator, John Tyler Morgan.

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the new bridge in Dallas County, Alabama, spanning the Alabama River on Highway 80 be named the John Tyler Morgan Bridge and that the appropriate markers be placed thereon.

Approved August 31, 1971.

Time: 9:07 A.M.

Act No. 519

H. 212—Mathews

AN ACT

Relating to boards of registrars in counties having populations of not less than 10,660 nor more than 10,900, according to the most recent federal decennial census, to provide that such boards shall only be required to hold meetings at the county seat.

Be It Enacted by the Legislature of Alabama:

Section 1. In counties having populations of not less than 10,660 nor more than 10,900, according to the most recent federal decennial census, the board of registrars shall only be required to meet and hold sessions at the county seat of such counties.

Section 2. The provisions of this Act are supplemental. It shall not repeal the provisions of any other law but whenever the provisions of any other law conflict with the provisions hereof, the provisions of this Act shall take precedence and be paramount to the provisions of the conflicting Act.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:08 A.M.

Act No. 520

H. 213—Mathews

AN ACT

To provide an additional expense allowance for the Probate Judge for counties having populations of not less than 10,660 nor more than 10,900 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. In counties having populations of not less than 10,660 nor more than 10,900, according to the most recent federal decennial census, the Board of County Commissioners or like governing body of the county is authorized by proper resolution adopted by the Board of County Commissioners to pay out of the county general fund to the Probate Judge of said county an expense allowance of \$3,600 per year which shall be in addition to all other fees, remuneration or compensation of any kind that he may now receive.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:09 A.M.

Act No. 521

H. 421—Hardin, Bassett

AN ACT

To amend the title and Section 1 of Act No. 158, H. 28, Special Session 1961 (Acts 1961, p. 2106), which Act provides further for jury trials in land line and boundary dispute trials in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 158, H. 28, Special Session 1961 (Acts 1961, p. 2106), is hereby amended to read as follows:

“An Act to provide for a jury trial in any proceeding at law or equity in any county having a population of not less than 22,000 nor more than 22,500 inhabitants, according to the 1970 or any succeeding federal decennial census, for the purpose of establishing disputed land lines or boundaries between coterminous owners of land.”

Section 2. Section 1 of said Act No. 158, H. 28, is hereby amended to read as follows:

“Section 1. In any county having a population of not less than 22,000 nor more than 22,500 inhabitants, according to the 1970 or any succeeding federal decennial census, any party to an action at law or proceeding in equity for the purpose of establishing or determining disputed land lines or boundaries between coterminous owners, whether such suit is instituted pursuant to Chapter 2, Title 47, Code of Alabama 1940, or any

other provision of law, may demand a trial by jury. Under such application, a trial by jury shall be directed to determine the issues, or any specified issue of fact, presented by the pleadings, and the court is bound by the result, but may, for sufficient reasons, order a new trial thereof. When a jury trial is not requested, the court shall consider and determine all rights, title, interests in or claims upon the land in controversy and shall, upon the findings of the jury, or upon such consideration and determination, finally locate, establish, and define by decree the boundary line. The court's decree is binding and conclusive upon all the parties to the suit."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:10 A.M.

Act No. 522

H. 483—Lang

AN ACT

To fix the compensation of the deputy solicitor of Greene County.

Be It Enacted by the Legislature of Alabama:

Section 1. The compensation of the deputy solicitor appointed for Greene County shall be an annual salary of six thousand dollars (\$6,000) and shall be payable in equal monthly installments from the county treasury.

Section 2. All laws or parts of law, general, local or special, which conflict with this Act are repealed.

Section 3. This Act shall take effect on the first day of the month next following the date of its enactment.

Approved August 31, 1971.

Time: 9:11 A.M.

Act No. 523

H. 484—Lang

AN ACT

Authorizing compensation for clerical assistants for the tax assessor of Greene County and providing payment of such compensation out of county funds.

Be It Enacted by the Legislature of Alabama:

Section 1. The tax assessor of Greene County may employ such clerical assistants as he deems necessary. Compensation for such clerical assistants shall be payable out of county funds not to exceed five thousand dollars (\$5,000) annually in monthly installments on the certificate of the tax assessor.

Section 2. All laws or parts of laws, general, local or special, in conflict herewith are hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:12 A.M.

Act No. 524

H. 485—Lang

AN ACT

To amend the title and Section 1 of Act No. 165, H. 543, Regular Session 1965 (Acts 1965, p. 232), which act provides for the fixing of per diem pay for members of the board of equalization of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 165, H. 543, Regular Session 1965 (Acts 1965, p. 232), is hereby amended to read as follows:

“An Act Relating to all counties having populations of not less than 18,500 nor more than 20,500 according to the most recent federal decennial census, fixing the per diem pay for members of the board of equalization.”

Section 2. Section 1 of said Act No. 165, H. 543, is hereby amended to read as follows:

“Section 1. In all counties having populations of not less than 18,500 nor more than 20,500 according to the most recent federal decennial census, the members of the board of equalization shall each receive fifteen dollars per day for each day’s attendance upon the sessions of the board.”

Section 3. This act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:13 A.M.

Act No. 525

H. 486—Lang

AN ACT

To amend the title and Section 1 of Act No. 8, H. 95, Special Session 1969 (Acts 1969, p. 21), which act provides for additional meetings of the county commission and for additional compensation and expense allowances for the members of said body, including the chairman or presiding judge of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 8, H. 95, Special Session 1969 (Acts 1969, p. 21), is hereby amended to read as follows:

“An Act applying only in counties having populations of not less than 18,500 nor more than 20,500 according to the most recent federal decennial census, the county commission or like governing body of the county shall hold regular meetings twice a month on the first and third Tuesday’s of each month.”

Section 2. Section 1 of said Act No. 8, H. 95 is hereby amended to read as follows:

“Section 1. In all counties having populations of not less than 18,500 nor more than 20,500, according to the most recent federal decennial census, the county commission or like governing body of the county shall hold regular meetings twice a month on the first and third Tuesdays of each month.”

Section 3. This act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:14 A.M.

Act No. 526

H. 487—Lang

AN ACT

To amend the title and section 1 of Act No. 628, H. 1022, Regular Session 1965 (Acts 1965, p. 1150), which act provides a clerk-hire allowance for certain officers of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 628, H. 1022, Regular Session 1965 (Acts 1965, p. 1150), is hereby amended to read as follows:

“An Act to provide clerk-hire allowance for certain officers of all counties having populations of not less than 18,500 nor more than 20,500.”

Section 2. Section 1 of said Act No. 628, H. 1022 is hereby amended to read as follows:

"Section 1. The county commission of any county having a population of not less than 18,500 nor more than 20,500, according to the most recent federal decennial census; may provide a clerk hire allowance of not more than two hundred dollars (\$200) per month each, for the use of the circuit clerk, the tax collector, and the tax assessor of said county. The allowance, if provided by the governing body of the county, shall be paid from the general fund of the county in such manner as the governing body may direct."

Section 3. This act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:15 A.M.

Act No. 527

H. 488—Lang

AN ACT

To amend the title and Section 1 of Act No. 395, H. 1023, Special Session 1969 (Acts 1969, p. 771), which act provides for increasing the salary of the deputy solicitor of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 395, H. 1023, Special Session 1969 (Acts 1969, p. 771) is hereby amended to read as follows:

"An Act Relating to counties having a population of not less than 18,500 nor more than 20,500; increasing the salary of the deputy solicitor in such counties."

Section 2. Section 1 of said Act No. 395, H. 1023, is hereby amended to read as follows:

"Section 1. In any county having a population of not less than 18,500 nor more than 20,500 according to the most recent federal decennial census, the salary of the deputy solicitor in such county shall be \$3,600 per year, payable from the general funds of the county in equal monthly installments."

Section 3. This act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:16 A.M.

Act No. 528

H. 489—Lang

AN ACT

To amend the title and Section 1 of Act No. 21, H. 71, Third Special Session 1965 (Acts 1965, p. 227) which act authorizes the county commission in certain counties classified on a population basis to appropriate and use certain county funds and to designate and use certain county property, buildings, and facilities in order to qualify for and receive federal assistance under the Federal Economic Opportunity Act of 1964.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 21, H. 65, Third Special Session 1965 (Acts 1965, p. 227) is hereby amended to read as follows:

“An Act Relating to counties having a population of not less than 18,500 nor more than 20,500 according to the most recent federal decennial census; to authorize the county governing body in any such county to appropriate and use certain county funds and to designate and use certain county property, buildings, and facilities in order to qualify for and receive federal assistance under the Federal Economic Opportunity Act of 1964.

Section 2. Section 1 of said Act No. 21, H. 65, is hereby amended to read as follows:

“Section 1. The county commission of any county having a population of not less than 18,500 nor more than 20,500 according to the most recent federal decennial census shall have authority to appropriate and use such sums from the general funds of the county not otherwise appropriated, and to designate and use such county property, buildings, and facilities, as may be necessary to enable the county to participate in programs and receive benefits and funds provided for and made available by and from the federal government under Public Law 88-452 known as the Economic Opportunity Act of 1964, as approved by Congress on August 20, 1964, when such county governing body, in its discretion, considers such action to be in the best interest of the county. Provided, however, that such sums and such property, buildings, and facilities shall not be appropriated, designated, or used in any manner which conflicts with the Constitution or statutes of the State of Alabama.”

Section 3. This act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:17 A.M.

Act No. 529

H. 574—Lang

AN ACT

Relating to counties having populations of not less than 18,500 nor more than 20,500, fixing the fee for issuance of a pistol permit by the sheriff, and providing for the disposition and use of such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 18,500 nor more than 20,500 according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama Title 14, Section 177, shall be five dollars (\$5.00), which shall be collected by the sheriff and deposited in the county treasury. Four-fifths of the amount of each fee collected shall be credited to a special fund or account in the county treasury and shall be used exclusively by the sheriff for the upgrading of the sheriff's office and for law enforcement improvement projects in such amounts as he deems necessary; the remaining part of each fee collected shall be credited to the general funds of the county.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:18 A.M.

Act No. 530

H. 646—Grey (D)

AN ACT

Relating to Counties having a population of not less than 16,245 nor more than 16,300, according to the most recent federal decennial census; authorizing the probate judge to appoint a chief clerk and an assistant probate clerk, providing for their compensation, and fixing the amount of the official bond of the chief clerk.

Be It Enacted by the Legislature of Alabama:

Section 1. The Judge of Probate in any county having a population of not less than 16,245 nor more than 16,300, according to the most recent federal decennial census, may appoint a chief clerk and an assistant probate clerk to assist him in the performance of the duties of his office. Said chief clerk and assistant probate clerk so appointed shall each be paid a salary of \$200.00 a month to be payable from the general funds of the County.

Section 2. The said chief clerk so appointed shall be required by law in the sum of \$2,500.00, for the faithful performance of the duties of such office.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall take effect on the 1st day of the month next following the date of its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:19 A.M.

Act No. 531

H. 647—Grey (D)

AN ACT

Relating to Counties having a population of not less than 16,245 nor more than 16,300, according to the most recent federal decennial census; providing for the appointment of clerical assistants by the Tax Assessor, Tax Collector and Circuit Clerk.

Be It Enacted by the Legislature of Alabama:

Section 1. The Tax Collector and the Tax Assessor in any county having a population of not less than 16,245 nor more than 16,300, according to the most recent federal decennial census, may each appoint a clerk to assist him in the performance of the duties of his office. Each clerk so appointed shall be entitled to receive a salary of \$200.00 a month payable from the general funds of the County. The clerk of the Tax Assessor shall be employed full time, but the clerk of the Tax Collector shall be employed and paid for seven months in each calendar year and no more.

Section 2. The Circuit Clerk in any county having a population of not less than 16,245 nor more than 16,300, according to the most recent federal decennial census, may appoint a clerk to assist him in the performance of the duties of his office. Such clerk so appointed by said officer shall be paid a salary from the general funds of the county of an amount not to exceed \$800.00 during any one calendar year in installments as may be determined by said circuit clerk.

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This Act shall take effect on the 1st day of the month next following the date of its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:20 A.M.

Act No. 532

H. 663—Headley

AN ACT

To authorize the Chilton County Commission to pay Eulene Littleton for the damages done to her car by a washed-out bridge in Chilton County of March 15, 1970.

Be It Enacted by the Legislature of Alabama:

Section 1. The Chilton County Commission is hereby authorized and empowered to appropriate from the general funds of the county \$53.80 to Eulene Littleton to compensate her for damages done to her automobile as a result of an accident caused by a washed-out bridge in Chilton County on March 15, 1970.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:21 A.M.

Act No. 533

H. 776—Headley

AN ACT

Relating to the office of sheriff of Chilton County; providing further for the appointment, number, duties and compensation of deputies; providing for the furnishing of quarters, equipment and clerical help; providing for an expense allowance for the sheriff; and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. The sheriff of Chilton County may appoint a total of seven deputies, including a chief deputy and an assistant chief deputy who shall serve at the pleasure of the sheriff and shall perform such duties as the sheriff may direct. Before

entering upon their duties all such deputies shall make bond payable to the sheriff in the sum of \$2,000 conditional as required by Code of Alabama 1940, Title 41, Section 35.

Section 2. The salaries of all deputies shall be paid in equal monthly installments from the general fund of Chilton County or may be paid in whole or in part from the county highway and traffic fund at the direction of said county governing body. The chief deputy shall receive not less than \$7,800 nor more than \$8,400 per year. The assistant chief deputy shall receive not less than \$5,400 nor more than \$7,200 per year, and all regular deputies shall receive not less than \$4,800 nor more than \$6,600 per year. The salaries for the chief deputy sheriff, assistant chief deputy sheriff, and regular deputies within the above-designated schedule shall be determined by the sheriff of Chilton County upon the qualifications, experience, length of service, and abilities of said deputies.

Section 3. The county governing body shall provide the sheriff with such quarters, equipment, supplies, and clerical help as deemed necessary for the sheriff to efficiently and properly conduct the duties and affairs of his office. In event the sheriff is required to use his personal automobile in the performance of his duties as sheriff of Chilton County, Alabama he shall be compensated in the sum of ten cents per mile for each mile traveled in the performance of such duties.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed, and Act No. 105, H. 224 Regular Session 1967 (Acts 1967 p. 444) is hereby expressly repealed.

Section 5. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:22 A.M.

Act No. 534

H. 847—Headley

AN ACT

To amend Section 13 of Act No. 872, H. 1118, Regular Session 1951 (Acts 1951, p. 1505), which act established the Board of Revenue and Control of Chilton County by eliminating the requirement for publication of minutes of the meetings of said Board.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 13 of Act No. 872, H. 1118, Regular Session 1951, (Acts 1951, p. 1505) is hereby amended to read as follows:

"Section 13. The Board shall employ a clerk, who shall devote his entire time to the duties of his office, and he shall receive such compensation for his services as may be determined and fixed by the Board, and the Board may employ such other clerical help and assistants as may be deemed necessary for the proper, efficient and economical operation of the Board. The clerk shall enter the minutes of all proceedings of the Board in a well bound book provided him for that purpose, which book shall be kept in the office of the Board, and shall be open to the inspection of the public at all reasonable hours. The minutes of the proceedings of the Board shall be entered and recorded in the minute book within ten days from the adjournment of every regular or special meeting. The clerk shall have the minutes of each meeting reproduced within ten days after such meeting and place a sufficient number of copies thereof in a conspicuous place in the office of the Probate Judge for public distribution and shall also post a copy thereof in a conspicuous place in the courthouse. The clerk shall present to the Board at each regular meeting a list of all claims which have been filed against the county. He shall also keep a complete record of all receipts and disbursements of all county funds, and must be prepared at all times to show the exact financial condition of the county."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:23 A.M.

Act No. 535

H. 848—Headley

AN ACT

To further amend Section 11 of Act No. 471 of the Alabama Legislature, approved November 13, 1959 (Acts of Alabama 1959 Regular Session, pages 1170, et seq.), entitled "An Act to levy additional county privilege license and excise taxes for public school purposes in Chilton County, such taxes to parallel the state sales and use taxes provided for in Act No. 100, H. 94, approved August 18, 1959, effective October 1, 1959, and Article 11, Chapter 20, Title 51, Code of Alabama of 1940, as amended and supplemented; providing for the collection of such taxes by the state department of revenue, and for the custody, distribution

and use of the proceeds thereof; providing for the administration and enforcement of the Act, and prescribing penalties," as heretofore amended by Act No. 55 of the 1963 Second Special Session of the Alabama Legislature, approved April 23, 1963 (Acts of Alabama, 1963, pages 219, et seq.).

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 11 of Act No. 471 (Acts of Alabama, 1959 Regular Session, pages 1170, et seq.) entitled "An Act to levy additional county privilege license and excise taxes for public school purposes in Chilton County, such taxes to parallel the state sales and use taxes provided for in Act No. 100, H. 94, approved August 18, 1959, effective October 1, 1959, and Article 11, Chapter 20, Title 51, Code of Alabama of 1940, as amended and supplemented; providing for the collection of such taxes by the state department of revenue and for the custody, distribution and use of the proceeds thereof; providing for the administration and enforcement of the Act, and prescribing penalties," as heretofore amended by Act No. 55 of the 1963 Second Special Session of the Alabama Legislature, approved April 23, 1963 (Acts of Alabama, 1963, pages 219, et seq.), be and the same hereby is amended to read as follows:

"Section 11. The levy of taxes herein made shall terminate on September 30, 1995. When the levy of the taxes herein made terminates as provided herein, all the provisions of this Act pertaining to the payment and collection of taxes herein levied, the making of reports and maintaining of records with respect thereto and in general the enforcement of this Act shall thereafter continue to be effective with respect to the taxes herein levied that shall have accrued hereunder prior to such termination date."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:25 A.M.

Act No. 536

H. 849—Lang

AN ACT

Relating to counties having populations of 10,660 or less; fixing the fee for issuance of a pistol permit by the sheriff, and providing for the disposition and use of such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of 10,660 or less according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama Title 14, Section 177, shall be five dollars (\$5.00), which shall be collected by the sheriff and deposited in the county treasury. Four-fifths of the amount of each fee collected shall be credited to a special fund or account in the county treasury and shall be used exclusively by the sheriff for the upgrading of the sheriff's office and for law enforcement improvement projects in such amounts as he deems necessary; the remaining part of each fee collected shall be credited to the general funds of the county.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 9:26 A.M.

Act No. 537

H. 1017—Merrill, Burgess, Stewart
AN ACT

To amend further Act No. 608, H.B. 700, Regular Session 1951, an Act establishing a retirement fund and pension system for policemen and firemen of the City of Anniston (Acts 1950-1951, v. 2, p. 1045), amending such Act relative to retirement benefits, and specifically amending Sections 16, 17 and 18 and repealing Section 19 of said Act.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16, as amended, of Act No. 608, H.B. 700, Regular Session 1951, an Act establishing a retirement fund and pension system for the benefit of policemen and firemen of the City of Anniston (Acts 1950-1951, v. 2, p. 1045), is hereby further amended so as to read as follows:

"Section 16. Any member of the fire or police department who has been in service for as long as twenty years shall be retired from service in such department, without medical examination or disability, upon his making application to the Board therefor. Upon such retirement, the Board shall direct the payment to such retired member, monthly, from the Fund, the amount hereinafter provided for his particular position, office, salary or class of work:

"To the chief of police and to the chief of the fire department, by whatever title these two offices are designated, —

"For at least 20 but less than 25 years of service, not less than \$275 nor as much as \$300 per month,

"For at least 25 but less than 30 years of service, not less than \$300 nor as much as \$325 per month,

"For 30 or more years of service, not less than \$325 per month; nor as much as \$350.00 per month.

"To the assistant chief of police and to the assistant chief of the fire department, and to the captain of detectives.

"For at least 20 but less than 25 years of service, not less than \$250 nor as much as \$275 per month,

"For at least 25 but less than 30 years of service, not less than \$275 nor as much as \$300 per month,

"For 30 or more years of service, not less than \$300 per month; nor as much as \$325.00 per month.

"To captains, —

"For at least 20 but less than 25 years of service, not less than \$240 nor as much as \$265 per month,

"For at least 25 but less than 30 years of service, not less than \$265 nor as much as \$290 per month,

"For 30 or more years of service, not less than \$290 per month; nor as much as \$315.00 per month.

"To lieutenants, —

"For at least 20 but less than 25 years of service, not less than \$230 nor as much as \$255 per month.

"For at least 25 but less than 30 years of service, not less than \$255 nor as much as \$280 per month,

"For 30 or more years of service, not less than \$280 per month; nor as much as \$305.00 per month.

"To sergeants and to detectives, —

"For at least 20 but less than 25 years of service, not less than \$220 nor as much as \$245 per month,

"For at least 25 but less than 30 years of service, not less than \$245 nor as much as \$270 per month,

"For 30 or more years of service, not less than \$270 per month; nor as much as \$295.00 per month.

"To patrolmen and to firemen, —

"For at least 20 but less than 25 years of service, not less than \$210 nor as much as \$235 per month,

"For at least 25 but less than 30 years of service, not less than \$235 nor as much as \$260 per month,

"For 30 or more years of service, not less than \$260 per month nor as much as \$285.00 per month."

Section 2. Section 17 of said Act No. 608 of 1951, is hereby amended so as to read as follows:

"Section 17. The Board shall retire from service in the police or fire department any member thereof upon his attaining the age of sixty years; provided, however, that any member of the fire or police department on October 1, 1941, the effective date of this Act, who was over the age of forty years at the time he became a member shall not be retired by the Board prior to the completion by him of twenty years of service. The member retired from service as hereinabove provided shall receive from the fund maximum retirement benefits provided for his particular position, office, salary or class of work."

Section 3. Section 18 of said Act No. 608 of 1951, as amended, is amended further so as to read as follows:

"Section 18. If any member of the police or fire department becomes physically or mentally permanently disabled for service as a result of injuries received in the line of duty, regardless of the length of the period of his service, or if any such member, who has at least 20 years of service, becomes physically or mentally disabled for service so as to render his retirement from such service necessary, or if such a member is required to retire because of having reached sixty years of age, the Board shall retire such member from service. The Board shall also order the payment to him of the maximum retirement benefits as provided in this Act for his particular position, office, salary or class of work.

"If any member having ten or more years of service becomes disabled for service from any cause, except injury received in line of duty, the Board may retire such member and order payment of benefits to him on the following basis: For not less than 10 but less than 15 years of service not less than \$75 but less than \$100 per month; for not less than 15 but less than 20 years of service not less than \$100 nor more than \$125 per month; for 20 years or more of service, the benefits provided in Section 16 of this Act, as amended."

Section 4. Section 19 of said Act No. 608 of 1951 is hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. The provisions of this act are reme-

dial and shall be given retroactive effect; that is to say, that the benefits payable under this act as amended shall be payable to persons who are now retired and entitled to pensions as well as to those persons who hereafter retire.

Approved August 31, 1971.

Time: 9:27 A.M.

Act No. 538

H. 1050—Hill, Flipppo

AN ACT

Relating to the 11th Judicial Circuit, to extend the powers, authority and duties of the district attorney of such judicial circuit so as to empower, authorize, and require that such district attorney supervise the prosecution of all misdemeanors to be tried and all felonies to be heard on preliminary in any and all inferior courts located and constituted in the county composing such judicial circuit, creating the office of deputy district attorney for such judicial circuit and prescribing the duties of such office; providing for the mode and manner of the appointment of three such deputy district attorneys and for their compensation, and further providing that such compensation shall be paid out of the general fund of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The powers, authority, and duties of the district attorney of the 11th Judicial Circuit shall be and hereby are extended to empower, authorize, and require that he supervise the prosecution of all misdemeanors to be tried and all felonies to be heard on preliminary in any and all inferior courts located and constituted in the circuit, and such circuit solicitor shall have the power and authority to take charge of any misdemeanor or felony heard or tried in such inferior courts of the circuit.

Section 2. There shall be and hereby is authorized and created the office of deputy district attorney for the 11th Judicial Circuit. The district attorney for such circuit shall be and is hereby empowered to appoint three (3) such deputy district attorneys who must be bonafide resident citizen of the county and who shall serve at the pleasure of such district attorney. The primary duties of such deputy district attorneys shall be the prosecution under the supervision of the district attorney of all misdemeanors to be tried and all felonies to be heard on preliminary in any and all inferior courts located and constituted in the judicial circuit. When such deputy district attorneys are not engaged in the fulfillment of their said primary duties, they shall perform such other duties of the office of district attorney before the grand jury or in the circuit court of such judicial circuit as the district attorney may require and direct. The compensation of such deputy district attorney shall be nine

thousand six hundred dollars (\$9,600) per annum until they have served in such office for six (6) months. After they have served for six (6) months their compensation shall, on the recommendation of the district attorney, be increased to a maximum of twelve thousand dollars (\$12,000) per annum. The compensation of the deputies shall be payable in equal monthly installments or in semi-monthly installments out of the general fund of the county composing such judicial circuit as other salaries are paid. Such deputy district attorney shall be subject to the provisions of sub-section 13 of Section 229 of Title 13, of the Code of the Code of Alabama 1940.

Section 3. All laws or parts of laws in conflict with this Act are hereby repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 7:50 P.M.

Act No. 539

H. 1051—Flippo, Hill

AN ACT

To repeal Act No. 326, H. 775, approved August 28, 1963, Regular Session 1963 (Acts 1963, p. 809), entitled, "An Act Relating to all judicial circuits of the State of Alabama composed of only one county and having a population of not less than Sixty Thousand Five Hundred (60,500) and not more than Sixty-five Thousand (65,000) inhabitants according to the last or any succeeding federal decennial census; authorizing the solicitor of said circuit to appoint a Deputy Circuit Solicitor and providing for the payment of said Deputy Circuit Solicitor's compensation from the general funds of the county constituting such circuit."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 326, H. 775, approved August 28, 1963, Regular Session 1963 (Acts 1963, p. 809), entitled, "An Act Relating to all judicial circuits of the State of Alabama composed of only one county and having a population of not less than Sixty Thousand Five Hundred (60,500) and not more than Sixty-five Thousand (65,000) inhabitants according to the last or any succeeding federal decennial census; authorizing the solicitor of said circuit to appoint a Deputy Circuit Solicitor and providing for the payment of said Deputy Circuit Solicitor's compensation from the general funds of the county constituting such circuit," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 9:29 A.M.

Act No. 540

H. 1433—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 of Act No. 196, H. 213, Special Session 1967 (Acts 1967, p. 243), which authorizes the county commission of certain counties classified on a population basis to appropriate county funds for the relief of persons damaged by county employees or county equipment.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 196, H. 213, Special Session 1967 (Acts 1967, p. 243), is amended to read as follows:

“An Act To apply only in counties having populations of not less than 95,000 nor more than 115,000; authorizing the governing body of any such county to appropriate county funds for the relief of persons damaged by county employees or county equipment.”

Section 2. Section 1 of said Act No. 196, H. 213, is amended to read as follows:

“Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the county commission may make appropriations from the county treasury for the relief of persons for personal injuries suffered or property damage incurred as a result of any accident involving county employees or the operation of county equipment. No more than two hundred dollars shall be so appropriated in any particular accident or occurrence. Appropriations may be made as provided in this Act only upon a finding of the county governing body that the county is justly and morally obligated to make reparation for the injury or damage suffered by the claimant; and such finding shall be entered upon the permanent records of the county governing body.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:30 A.M.

Act No. 541

H. 1434—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 257, H. 773, Regular Session 1969 (Acts 1969, p. 589), which allows a judge to excuse veniremen summoned for the week in which a person or persons indicted for a capital felony is to be tried, prior to the call of the case and without the defendant or his attorney being present, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 257, H. 773, Regular Session 1969 (Acts 1969, p. 589) is amended to read as follows:

“An Act Relating to judicial procedure in all counties having populations of not less than 95,000 nor more than 115,000: To authorize and provide for the judge, in his discretion, to excuse veniremen summoned for the week in which a person or persons indicted for a capital felony is to be tried, prior to the call of the case and without the defendant or his attorney being present.”

Section 2. Section 1 of said Act No. 257, H. 773, is amended to read as follows:

“Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, at any time after a person has been summoned as one of a special venire drawn for the week for the trial of any person or persons indicted for a capital felony, pursuant to Code of Alabama 1940, Title 30, Section 63, and before the call of such cause, the judge may, in his discretion, for cause excuse any person so summoned from serving; but he must enter an order to such effect and assign therein his reasons therefor. Neither the defendant nor his attorney shall have any right to be present when such venireman is so excused. The defendant may, however, except to such order in the same manner that he is authorized to except to rulings excusing veniremen made in his presence. On the day set for the trial if the cause is ready for trial, the court must report the names of veniremen whom he has excused and the reason for so excusing each one. He shall then in the manner prescribed in Code of Alabama 1940, Title 30, Section 64, inquire into and pass upon the qualifications of all the persons who appear in court in response to the summons to serve as jurors, and shall cause the names of all those whom the court may hold to be competent jurors to try the defendant or defendants to be placed on lists, and thereupon names shall be struck from the list in the manner provided in said Title 30, Section 64, until only twelve names remain thereon. The twelve thus selected shall be sworn and empaneled as required by law for the trial of the defendant or defendants.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:31 A.M.

Act No. 542

H. 1435—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 506, S. 554, approved August 22, 1951 (Acts 1951, p. 898), as last amended, which relates to the circuit solicitors of certain judicial circuits composed of two counties, one of which is classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 506, S. 554, approved August 22, 1951 (Acts 1951, p. 898), as last amended, is amended to read as follows:

“An Act Relating to the circuit solicitor of judicial circuits having three judges and being composed of only two counties, one of which has a population of not less than 95,000 nor more than 115,000; providing him with a chief clerk; prescribing the duties, powers, functions, compensation and method of selection of such clerk; and providing for a travel allowance for such solicitor.”

Section 2. Section 1 of said Act No. 506, S. 554, as last amended, is amended to read as follows:

“Section 1. This Act shall apply only in judicial circuits now or hereafter having three judges and being composed of only two counties, one of which has a population of not less than 95,000 nor more than 115,000, according to the 1970 or any subsequent federal decennial census.”

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:32 A.M.

Act No. 543

H. 1436—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 149, H. 167, Special Session 1969 (Acts 1969, p. 215), which fixes the per diem pay for

members of the county board of equalization in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 149, H. 167, Special Session 1969 (Acts 1969, p. 215) is amended to read as follows:

“An Act To apply only in counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census, fixing the per diem pay for members of the county board of equalization.”

Section 2. Section 1 of said Act No. 149, H. 167, is amended to read as follows:

“Section 1. In all counties of the State of Alabama having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census, the members of the board of equalization shall each receive \$15 per day for each day's attendance upon the sessions of the board. The increase in pay provided for by this Act shall be paid from the general funds in the county treasury.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:33 A.M.

Act No. 544

H. 1437—Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 135, H. 436, Regular Session 1969 (Acts 1969, p. 409), which fixes the fee for issuance of a pistol permit by the sheriff and provides for the distribution and use of such fees, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 135, H. 436, Regular Session 1969 (Acts 1969, p. 409) is amended to read as follows:

“An Act Relating to counties having populations of not less than 95,000 nor more than 115,000; fixing the fee for issuance of a pistol permit by the sheriff; and providing for the distribution and use of such fees.”

Section 2. Section 1 of said Act No. 135, H. 436, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama 1940, Title 14, Section 177, shall be \$5.00, which shall be collected by the sheriff and deposited in the county treasury. Such fee shall be credited to a special fund or account in the county treasury and shall be used exclusively for the purpose of purchasing and maintaining materials, books and equipment for the County Law Library, in such amounts and at such times as may be approved by the court of county commissioners, board of revenue, or other like governing body of the county."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:35 A.M.

Act No. 545

H. 1438—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 253, H. 756, Regular Session 1969 (Acts 1969, p. 585), which provides for the condemnation of any motor vehicle, gun, rifle, or other hunting equipment used in night hunting of deer and provides for the disposition of the proceeds of the sale thereof, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 253, H. 756, Regular Session 1969 (Acts 1969, p. 585) is amended to read as follows:

"An Act To apply only to counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, providing for condemnation of any motor vehicle, gun, rifle, or other hunting equipment used in night hunting of deer in the county and providing for the disposition of the proceeds of the sale thereof."

Section 2. Section 1 of said Act No. 253, H. 756, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, any motor vehicle, or any gun, rifle or other hunting equipment customarily used in hunting deer, or any possession thereof upon the person or in any motor vehicle of any person who may be apprehended while engaging in hunt-

ing deer at night in the county shall be contraband and shall be forfeited to the State of Alabama. Such property may be seized by the Sheriff of the county or by any other officer or person acting under authority of law in the enforcement of laws of this state, and the Sheriff or such other officer or person shall report the seizure and the facts connected therewith to the solicitor or any other prosecuting official of the county, giving a full description of the vehicle or other equipment seized and detained, the name of the person in whose possession it was found, the name of the person making claim to the same or any interest therein if the name is known or can be ascertained, the date of seizure, and a statement of the circumstances connected with the apprehension of the person or persons whose property has been seized."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:36 A.M.

Act No. 546

H. 1439—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 118, S. 73, Special Session 1962 (Acts 1962, p. 152), which authorizes the licensing and regulation of and hunting on certain privately owned hunting preserves; prescribes fees for such license; provides for collection and distribution of such fees, and penalties for violations of this Act, in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 118, S. 73, Special Session 1962 (Acts 1962, p. 152), is amended to read as follows:

"An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 95,000 nor more than 115,000 according to the 1970 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act."

Section 2. Section 1 of said Act No. 118, S. 73, is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 95,000 nor more than 115,000

according to the 1970 or any subsequent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:37 A.M.

Act No. 547

H. 1441—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 192, S. 77, Special Session 1969 (Acts 1969, p. 254), which provides for the appointment, duties, and authority of an assistant chief clerk in the office of the judge of probate; to provide bonding, and provide for compensation, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 192, S. 77, Special Session 1969 (Acts 1969, p. 254), is amended to read as follows:

"An Act Relating to counties having a population of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census; to provide for the appointment of an Assistant Chief Clerk in the office of the Judge of Probate of such counties; to define his duties and authority; to direct the filing of a bond and provide for the compensation of such position."

Section 2. Section 1 of said Act No. 192, S. 77, is amended to read as follows:

"Section 1. This Act shall apply to Probate Courts and to the Office of Judge of Probate in all counties having a population of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census. There shall be an Assistant Chief Clerk in each said county who shall be appointed by the Judge of Probate as other employees of said office are appointed."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:38

Act No. 548

H.1442—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 150, H. 168, Special Session 1969 (Acts 1969, p. 216), which provides for the establishment

of a work schedule for firemen; provides maximum per week work hours for firemen with exceptions in certain emergencies; provides for the determination of when an emergency exists, and provides for organization of the fire department into platoons, in certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 150, H. 168, Special Session 1969 (Acts 1969, p. 216), is amended to read as follows:

“An Act To provide that each city of the State having a population of not less than 30,000 nor more than 33,000, according to the most recent Federal Decennial Census, shall establish for firemen in its fire department a schedule for work by the week which shall not exceed fifty-six (56) hours per week; and, subject to the exceptions contained in said act, to provide that no fireman in the fire department of the city shall work in excess of fifty-six (56) hours per week; to provide that the act shall not prohibit any fireman in the city from working, or prohibit any city from requiring any fireman to work, in excess of fifty-six (56) hours per week if because of some emergency the public safety or public welfare requires that he work in excess of said time; to provide that the governing body of the city shall have the power to prescribe rules and regulations for determining the existence of any emergency rendering it necessary for a fireman to work at some time other than the time covered by his normal or regular work schedule; and that the governing body may delegate to any officer of the city, including an officer or officers in the fire department, the power to make such determination; to provide that unless the governing body of a city provides otherwise, the chief of the fire department or any officer of the fire department acting for and in place of the chief of the fire department shall have authority to determine the existence of any emergency rendering it necessary for a fireman to work at some time other than the time covered by his normal or regular work schedule; and to provide that the fire department of each city for which a work schedule of fifty-six (56) hours per week is provided shall be divided into three platoons, with each platoon to be on duty for twenty-four (24) consecutive hours and off duty for forty-eight (48) consecutive hours, provided that any member of a platoon, during his off duty hours, may be ordered or called to duty in case of an emergency.”

Section 2. Section 1 of said Act No. 150, H. 168, is amended to read as follows:

“**Section 1.** This act shall apply to each city of the State having a population of 30,000 or more than 33,000, according to the most recent Federal Decennial Census and shall not apply to any other city. The word “city,” as used herein, means a city in the said population classification.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:39 A.M.

Act No. 549

H. 1443—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 67, H. 56, 1st Special Session 1956 (Acts 1956, p. 99), as last amended, which abolishes the fine and forfeiture funds for certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 67, H. 56, 1st Special Session 1956 (Acts 1956, p. 99), as last amended, is amended to read as follows:

“An Act Relating to counties having a population of not less than 95,000 nor more than 115,000 inhabitants; abolishing the fine and forfeiture funds of such counties and providing that all monies now in the fine and forfeiture fund or hereafter collected for such fund shall be paid into the general fund of such counties and that all claims due or to become due from the fine and forfeiture fund shall be paid from the general fund of the county; providing that witness certificates obtained as a state’s witness before the grand jury or the circuit court, county court or other inferior court in which a criminal prosecution is pending shall be paid from the general fund on presentation; providing that all monies now held or hereafter collected as witness fees for state’s witnesses in the circuit court, county court or other inferior court shall be paid on collection into the general fund of the county.”

Section 2. Section 1 of said Act No. 67, H. 56, as last amended, is amended to read as follows:

“Section 1. The provisions of this Act shall apply only to counties having populations of not less than 95,000 nor more than 115,000 inhabitants, according to the 1970 or any subsequent Federal decennial census.”

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:40 A.M.

Act No. 550

H. 1444—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 491, S. 413, approved September 10, 1957 (Acts 1957, p. 678), as last amended, which further regulates the alteration and extension of the corporate limits and boundaries of incorporated municipalities in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 491, S. 413, approved September 10, 1957 (Acts 1957, p. 678), as last amended, is amended to read as follows:

“An Act Relating to counties having populations of not less than 95,000 nor more than 115,000, according to the 1970 or any subsequent federal decennial census; further regulating the alteration and extension of the corporate limits and boundaries of incorporated municipalities in such counties.”

Section 2. Section 1 of said Act No. 491, S. 413, as last amended, is amended to read as follows:

“Section 1. This Act shall apply only in counties having populations of not less than 95,000 nor more than 115,000, according to the 1970 or any subsequent federal decennial census.”

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:41 A.M.

Act No. 551

H. 1445—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 73, H. 219, Regular Session 1967 (Acts 1967, p. 407), which provides that the county commission of certain counties classified on a population basis shall be authorized to expend county funds in an amount for advertising and paying moral obligations, and to provide for retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 73, H. 219, Regular Session 1967 (Acts 1967, p. 407) is amended to read as follows:

"An Act To provide that the county commission of any county having a population of not less than 95,000 nor more than 115,000, according to the last or any subsequent federal decennial census, shall be authorized to expend county funds in an amount for advertising and paying moral obligations, and to provide for retroactive effect."

Section 2. Section 1 of said Act No. 73, H. 219, is amended to read as follows:

"Section 1. The county commission of any county having a population of not less than 95,000 nor more than 115,000, according to the last or any subsequent federal decennial census, shall be authorized to expend county funds for the purpose of advertising by newspaper, radio, television, or by individual contract, in such manner deemed advisable by the governing body, and to pay moral obligations arising from accidents caused by county equipment or vehicles negligently operated by officers, agents or employees of the county; provided, however, that no one payment for such advertisement or moral obligation shall exceed the amount of Two Hundred Dollars (\$200.00)."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:42 A.M.

Act No. 552

H.1446—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 492, S. 414, Regular Session 1957 (Acts 1957, p. 681), as last amended, which relates to immediate operation of the laws and ordinances of any city or town as to territory annexed to such city or town in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 492, S. 414, Regular Session 1957 (Acts 1957, p. 681), as last amended, is amended to read as follows:

"An Act Relating to counties having populations of not less than 95,000 nor more than 115,000 according to the 1970 or any subsequent federal decennial census; providing that the territory annexed to any city or town in such counties shall be subject immediately to all its laws and ordinances, and that its governing body shall have the same jurisdiction over such

territory, including the authority to levy and collect taxes therein, as is exercised over all other territory within the corporate limits of the city or town."

Section 2. Section 1 of said Act No. 492, S. 414, as last amended, is amended to read as follows:

"Section 1. Whenever proceedings to extend the corporate limits of any city or town situated in any county having a population of not less than 95,000 nor more than 115,000 according to the 1970 or any subsequent federal decennial census, are complete, all territory thereby brought within the corporate limits of such city or town shall be subject immediately to all laws and ordinances of such town, and its governing body shall have and exercise the same jurisdiction over such territory, including the authority to levy and collect taxes therein, as is exercised over all other territory within the corporate limits of the city or town."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:43 A.M.

Act No. 553

H. 1447—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 183, H. 364, Regular Session 1961 (Acts 1961, p. 225), as last amended, which authorizes the establishment of branch banks in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 183, H. 364, Regular Session 1961 (Acts 1961, p. 225), as last amended, is amended to read as follows:

"An Act Authorizing the establishment of branch banks in counties having a population of not less than 95,000 nor more than 115,000 inhabitants, according to the 1970 or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 183, H. 364, as last amended, is amended to read as follows:

"Section 1. This Act shall apply in and only in counties having a population of not less than 95,000 nor more than 115,000

inhabitants, according to the 1970 or any subsequent federal decennial census."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:44 A.M.

Act No. 554

H. 1448—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 148, H. 166, Special Session 1969 (Acts 1969, p. 215), which fixes the compensation of members of the jury commission in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 148, H. 166, Special Session 1969 (Acts 1969, p. 215) is amended to read as follows:

"An Act To apply only in counties having populations of not less than 95,000 nor more than 115,000, fixing the compensation of members of the jury commission."

Section 2. Section 1 of said Act No. 148, H. 166, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, each member of the jury commission shall be paid the sum of \$15 per day for the time actually engaged in the discharge of his duties as such member, to be paid out of the county treasury."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:45 A.M.

Act No. 555

H. 1449—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 175, H. 460, Regular Session 1965 (Acts 1965, p. 246), as last amended, which provides further

for the compensation and authority of coroners of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 175, H. 460, Regular Session 1965 (Acts 1965, p. 246), as last amended, is amended to read as follows:

“An Act Relating to counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census; providing further for the compensation and authority of coroners of such counties.”

Section 2. Section 1 of said Act No. 175, H. 460, as last amended, is amended to read as follows:

“Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the coroner shall be entitled to receive an annual salary of \$2,400, payable in equal monthly installments out of the general fund of the county, on the warrant of the court of county commissioners, board of revenue, or other like governing body of the county. In addition, the county governing body of such counties shall provide the coroner an allowance for expenses in the amount of \$100 a month, which shall be paid from the general fund of the county, and may also provide the coroner with a two-way radio equipment for his official use. All fees collected by the coroner shall be paid into the general fund of the county.”

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:47 A.M.

Act No. 556

H. 1450—Merrill

AN ACT

To amend the title and Section 1 of Act No. 41, H. 110, Regular Session 1967 (Acts 1967, p. 369), which fixes the compensation of certain county officers in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 41, H. 110, Regular Session 1967 (Acts 1967, p. 369), is amended to read as follows:

"An Act To fix the compensation of certain county officers in all counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census."

Section 2. Section 1 of said Act No. 41, H. 110, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, each of the following named county officers shall be entitled to an annual salary of \$13,500, which shall be payable in equal monthly installments from the general funds of the county, namely: the probate judge, sheriff, clerk of the circuit court, judge of the county court, tax assessor, and tax collector. The salary provided in this Act shall be the entire compensation of each officer named herein and shall take the place of all allowances for expenses or otherwise when this Act takes effect as provided in Section 3."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:48 A.M.

Act No. 557

H. 1452—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 179, H. 98, Special Session 1969 (Acts 1969, p. 244), which provides for the appointment of an Assistant Chief Clerk in the office of the Judge of Probate of certain counties classified on a population basis; to define his duties and authority; to direct the filing of a bond and provide for the compensation of such position.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 179, H. 98, Special Session 1969 (Acts 1969, p. 244) is amended to read as follows:

"An Act Relating to counties having a population of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census; to provide for the appointment of an Assistant Chief Clerk in the office of the Judge of Probate of such counties; to define his duties and authority; to direct the filing of a bond and provide for the compensation of such position."

Section 2. Section 1 of said Act No. 179, H. 98, is amended to read as follows:

"Section 1. This Act shall apply to Probate Courts and to the Office of Judge of Probate in all counties having a population of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census. There shall be an Assistant Chief Clerk in each said county who shall be appointed by the Judge of Probate as other employees of said office are appointed."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:49 A.M.

Act No. 558

H. 1453—Merrill, Stewart, Burgess
AN ACT

To amend the title and Section 1 of Act No. 151, H. 169, Special Session 1969 (Acts 1969, p. 218), which regulates the compensation of and provides for the payment of additional compensation to members of the board of registrars of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 151, H. 169, Special Session 1969 (Acts 1969, p. 218) is amended to read as follows:

"An Act To regulate the compensation of members of the county board of registrars in all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census; providing for payment of additional compensation from the county treasury."

Section 2. Section 1 of said Act No. 151, H. 169, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, each member of the county board of registrars shall receive fifteen dollars (\$15) per day for each day's attendance upon the session of the board. Of this, ten dollars (\$10) per day shall be paid by the state as prescribed by Act No. 531, S. 101, Regular Session 1947 (General Acts 1947, p. 388), as amended, and the remaining five dollars (\$5) shall be paid from the general funds of the county."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:50 A.M.

Act No. 559

H. 1454—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 177, H. 433, Regular Session 1969 (Acts 1969, p. 485), which authorizes the county governing body to provide clerk hire allowances for the county solicitor or deputy district attorney in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 177, H. 433, Regular Session 1969 (Acts 1969, p. 485) is amended to read as follows:

“An Act Relating to counties having a population of not less than 95,000 and not more than 115,000 according to the last and any subsequent federal decennial census; to authorize county governing bodies to provide clerk hire allowances for the offices of the county solicitor or deputy district attorney.”

Section 2. Section 1 of said Act No. 177, H. 433, is amended to read as follows:

“Section 1. This Act shall apply only in counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:51 A.M.

Act No. 560

H. 1455—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 and 2 of Act No. 693, H. 955, Regular Session 1967 (Acts 1967, p. 1518), which provides for the allocation of the duties of the chairman and members of the city commission of certain cities in counties classified on a population basis, and provides for their compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 693, H. 955, Regular Session 1967 (Acts 1967, p. 1518) is amended to read as follows:

"An Act providing for the allocation of the duties of the chairman and members of the city commission of certain cities in counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census, and providing for their compensation."

Section 2. Section 1 of said Act No. 693, H. 955, is amended to read as follows:

"Section 1. This act shall apply only in counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census."

Section 3. Section 2 of said Act No. 693, H. 955, is amended to read as follows:

"Section 2. The compensation of the chairman of the commission of any city having a commission form of government in counties having populations of not less than 95,000 or more than 115,000 according to the most recent federal decennial census, shall be fixed by the commission at not less than four thousand two hundred dollars nor more than fifteen thousand dollars per annum. The compensation of each associate member of the commission shall be fixed by the commission at not less than two thousand one hundred dollars nor more than six thousand dollars per annum. The amount of the salary of each associate commissioner shall be commensurate with the time he is required to devote to performing the duties of his office. The commission may require the chairman or a member of the commission to perform services for the water works board or any other agency or instrumentality of the city during the term for which he was elected, in which event, the chairman or member, as the case may be, shall be entitled to additional compensation for the performance of additional duties, such increase in compensation to be commensurate with the increased duties, as the commission may prescribe."

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:52 A.M.

Act No. 561

H. 1456—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 of Act No. 237, H. 236, Special Session 1966 (Acts 1966, p. 360), which provides for participation of

county employees in the Employees' Retirement System of Alabama in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 237, H. 236, Special Session 1966 (Acts 1966, p. 360), is amended to read as follows:

"An Act To provide for participation of county employees in the Employees' Retirement System of Alabama in all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census."

Section 2. Section 1 of said Act No. 237, H. 236, is amended to read as follows:

"Section 1. The county commission or other like governing bodies of all counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census, shall, not later than the first day of April after this Act becomes applicable to the county, provide for participation of county employees in the Employees' Retirement System of Alabama in accordance with the provisions of Act No. 515, H. 93, Regular Session 1945 (General Acts 1945, p. 734), as amended, and the rules and regulations of the Board of Control of the Employees' Retirement System of Alabama."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:53 A.M.

Act No. 562

H. 1457—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 1003, S. 825, Regular Session 1969 (Acts 1969, p. 1878), which provides for the payment of salary and expenses of an investigator appointed by the district attorney in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1003, S. 825, Regular Session 1969 (Acts 1969, p. 1878) is amended to read as follows:

"An Act Relating to counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census; providing for the payment by such counties of the salary and expenses of an investigator

appointed by the district attorney of the judicial circuits in which such counties are located."

Section 2. Section 1 of said Act No. 1003, S. 825, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the district attorney of the judicial circuits in which such counties are located may appoint an investigator to conduct investigations of alleged violations of law in the circuit. Such investigator shall be entitled to a salary not to exceed \$5,200 per annum, payable in equal monthly installments, and the necessary expenses incurred in investigation. He shall be furnished an automobile by the county for which he is employed and such county shall pay the expenses thereof. The exact amount of salary shall be fixed by the district attorney, subject to the approval of the governing body of the county."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:54 A.M.

Act No. 563

H. 1458—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 of Act No. 935, H. 1349, Regular Session 1969 (Acts 1969, p. 1672), which provides for the payment of salary and expenses of an investigator appointed by the district attorney of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 935, H. 1349, Regular Session 1969 (Acts 1969, p. 1672) is amended to read as follows:

"An Act Relating to counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census; providing for the payment by such counties of the salary and expenses of an investigator appointed by the district attorney of the judicial circuits in which such counties are located."

Section 2. Section 1 of said Act No. 935, H. 1349, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most re-

cent federal decennial census, the district attorney of the judicial circuits in which such counties are located may appoint an investigator to conduct investigations of alleged violations of law in the circuit. Such investigator shall be entitled to a salary not to exceed \$5,200 per annum, payable in equal monthly installments, and the necessary expenses incurred in investigations. He shall be furnished an automobile by the county for which he is employed and such county shall pay the expenses thereof. The exact amount of salary shall be fixed by the district attorney, subject to the approval of the governing body of the county."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:55 A.M.

Act No. 564

H. 1459—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 272, H. 13, Regular Session 1965 (Acts 1965, p. 385), which provides for the substitution of other books or texts for the textbooks on the list of state approved or state-adopted textbooks in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 272, H. 13, Regular Session 1965 (Acts 1965, p. 385), is amended to read as follows:

"An Act Relating to counties having a population of not less than 95,000 and not more than 115,000 according to the last or any subsequent federal decennial census; providing for the substitution of other books or texts for the textbooks on the list or state-approved or state-adopted textbooks."

Section 2. Section 1 of said Act No. 272, H. 13, is amended to read as follows:

"Section 1. After the end of the scholastic year 1963-1964, the county board of education of any county having a population of not less than 95,000 and not more than 115,000 according to the last or any subsequent federal decennial census may substitute other books or texts for the textbooks on the list of state-approved or state-adopted textbooks, prescribed by the State Board of Education. Whenever books or texts are substituted for the state-approved or state-adopted textbooks, such books or texts shall be used by the teachers in the county school

system in teaching any course or courses for which a substitution has been made. Provided, however, no County Board of Education shall substitute books or texts for the state-approved or state-adopted textbooks, if such substitution would cause such County Board of Education to be unable to furnish free textbooks to all students in the system through the twelfth grade."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:56 A.M.

Act No. 565

H. 1460—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 and 2 of Act No. 236, H. 905, Regular Session 1965 (Acts 1965, p. 340), which authorizes commissions to provide clerk hire allowances for certain courts in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 236, H. 905, Regular Session 1965 (Acts 1965, p. 340), is amended to read as follows:

"An Act Relating to Counties having a population of not less than 95,000 and not more than 115,000 according to the last and any subsequent decennial federal census; to authorize county commission to provide clerk hire allowances for the offices of the county court, intermediate court, and the office of the Register of the Circuit Court."

Section 2. Section 1 of said Act No. 236, H. 905, is amended to read as follows:

"Section 1. This Act shall apply only in counties having a population of not less than 95,000 nor more than 115,000 inhabitants according to the last or any subsequent decennial federal census."

Section 3. Section 2 of said Act No. 236, H. 905, is amended to read as follows:

"Section 2. The county commission of any county in which this Act applies is hereby authorized and empowered to expend from the general fund of the County in addition to all other sums now provided by law for the efficient operation of the offices of County Court, Intermediate Court, and Register of the Circuit Court, and for increasing the salaries or compensation

of the chief clerks, clerks, deputies, and assistants, and for employing additional help in the said offices, any amounts deemed to be reasonable and necessary by the said governing body.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:57 A.M.

Act No. 566

H. 1461—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 of Act No. 412, H. 906, Regular Session 1965 (Acts 1965, p. 601), which authorizes city Boards of Education in certain counties classified on a population basis to enter into agreements with the appropriate federal agencies for the operation of schools located on federal military bases adjoining cities having such boards and to operate said schools as if they were in a separate school district, pursuant to those agreements.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 412, H. 906, Regular Session 1965 (Acts 1965, p. 601), is amended to read as follows:

“An Act To authorize City Boards of Education in all counties having a population of not less than 95,000 and not more than 115,000 to enter into agreements with the appropriate federal agencies for the operation of schools located on federal military bases adjoining cities having City Boards of Education, and to operate said schools as if they were in a separate school district, pursuant to such agreements.”

Section 2. Section 1 of said Act No. 412, H. 906, is amended to read as follows:

“Section 1. In all counties having a population of not less than 95,000 and not more than 115,000 according to the last or any subsequent federal census, City Boards of Education shall be authorized to enter into agreements with the appropriate federal agencies for the operation of schools located on federal military bases adjoining cities having City Boards of Education, and shall be authorized to operate said schools pursuant to such agreements.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:58 A.M.

Act No. 567

H. 1462—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 of Act No. 446, S. 469, Regular Session 1965 (Acts 1965, p. 649), which prohibits the commissioner of licenses in certain counties classified on a population basis from charging or collecting any fees for administering oaths or acknowledging affidavits.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 446, S. 469, Regular Session 1965 (Acts 1965, p. 649), is amended to read as follows:

“An Act To prohibit the commissioner of licenses in all counties having a population of not less than 95,000 and not more than 115,000 from charging or collecting any fee or compensation for administering an oath or taking or acknowledging an affidavit; and repealing conflicting laws.”

Section 2. Section 1 of said Act No. 446, S. 469, is amended to read as follows:

“Section 1. In all counties having a population of not less than 95,000 and not more than 115,000 according to the last or any subsequent federal census, the commissioner of licenses shall not charge or collect any fee or compensation for administering an oath or taking or acknowledging an affidavit, or for taking an acknowledgment. The commissioner of licenses shall not be held liable for failing to charge or collect any such fee or compensation.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 9:59 A.M.

Act No. 568

H. 1463—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 of Act No. 35, H. 3, 2nd Special Session 1963 (Acts 1963, p. 205), which prohibits the probate judge from charging or collecting any fee or compensation for administering an oath or taking or acknowledging an affidavit, in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 35, H. 3, 2nd Special Session 1963 (Acts 1963, p. 205), is amended to read as follows:

"An Act To prohibit the probate judge in all counties having a population of not less than 95,000 and not more than 115,000 from charging or collecting any fee or compensation for administering an oath or taking or acknowledging an affidavit; and repealing conflicting laws."

Section 2. Section 1 of said Act No. 35, H. 3, is amended to read as follows:

"Section 1. In all counties having a population of not less than 95,000 and not more than 115,000 according to the last or any subsequent federal census, the probate judge shall not charge or collect any fee or compensation for administering an oath or taking or acknowledging an affidavit, or for taking an acknowledgment. The probate judge shall not be held liable for failing to charge or collect any such fee or compensation."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:00 A.M.

Act No. 569

H. 1464—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 94, H. 238, Second Special Session 1965 (Acts 1965, p. 127), which further regulates the taking of fish from public streams and impounded waters; authorizing the taking of catfish by the use of wire mesh baskets, on which a privilege license tax has been paid; prohibits the sale of fish so taken in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 94, H. 238, Second Special Session 1965 (Acts 1965, p. 127), is amended to read as follows:

"An Act To apply only in counties of the State having populations of not less than 95,000 nor more than 115,000 inhabitants according to the last or any subsequent federal decennial census, to further regulate the taking of fish from public streams and impounded waters; authorizing the taking of catfish by the use of wire mesh baskets, on which a privilege license tax has been paid; prohibiting the sale of fish so taken."

Section 2. Section 1 of said Act No. 94, H. 238, is amended to read as follows:

"Section 1. The Director of the Department of Conservation is hereby authorized and empowered to promulgate rules and regulations authorizing the taking, catching or killing of

non-game fish from the public waters of all counties of the State having populations of not less than 95,000 nor more than 115,000 inhabitants according to the last or any subsequent federal decennial census, by the use of wire baskets having a mesh of one inch or more."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:01 A.M.

Act No. 570

H. 1465—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 66, H. 19, Special Session 1966 (Acts 1966, p. 90), which regulates and provides for the payment of compensation of election officers in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 66, H. 19, Special Session 1966 (Acts 1966, p. 90), is amended to read as follows:

"An Act To regulate and provide for the payment of compensation of election officers in counties having populations of not less than 95,000 nor more than 115,000."

Section 2. Section 1 of said Act No. 66, H. 19, is amended to read as follows:

"Section 1. The officers appointed to hold elections in any county having a population of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, shall each be entitled to ten dollars. The returning officer shall also be entitled to mileage as prescribed in Code of Alabama 1940, Title 17, Section 198, as amended. The several claims shall be paid as preferred claims, out of monies in the county treasury not otherwise appropriated, on proper proof of service rendered. However, amounts paid to election officers under this Act in excess of the amounts prescribed by general laws shall not in any case be reimbursable by the State of Alabama."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:02 A.M.

Act No. 571

H. 1466—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 92, H. 232, Second Special Session 1965 (Acts 1965, p. 125), which provides an optional plan by which the county commission of certain counties classified on a population basis may establish two or more voting places within an election precinct; directs the grouping of names of qualified voters within such precinct and the assignment of said voters to a voting place; and requires the publication of such group-lists and the accompanying assignments.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 92, H. 232, Second Special Session 1965 (Acts 1965, p. 125), is amended to read as follows:

"An Act To provide an optional plan by which the county governing body of all counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census may establish two or more voting places within an election precinct, to direct the grouping of names of qualified registered voters within such precinct in alphabetical order and the assignment of such groups to a designated voting place; to require the publication of such group-lists and their respective assignments to voting places within said precinct."

Section 2. Section 1 of said Act No. 92, H. 232, is amended to read as follows:

"Section 1. The county commission in all counties in this state which have populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census, may at their option or discretion, designate in their respective counties two or more voting places within the same election precinct when such governing body shall deem it necessary. Such designation shall be by number and the appointed voting places may be within the same or a different building or shelter and without regard to geographical area within the precinct."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:03 A.M.

Act No. 572

H. 1467—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 67, H. 20, Special Session 1966 (Acts 1966, p. 80), which regulates the compensation of jurors in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 67, H. 20, Special Session 1966 (Acts 1966, p. 80), is amended to read as follows:

“An Act To regulate the compensation of jurors in counties having populations of not less than 95,000 nor more than 115,000.”

Section 2. Section 1 of said Act No. 67, H. 20, is amended to read as follows:

“Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, regular jurors, grand and petit, shall each be entitled to \$10.00 for each day's service, ten cents for each mile traveled in going to and returning from court, and ferriage and toll, to be proved by the oath of the juror before the clerk of the court. The clerk shall give each juror a certificate, stating therein the number of days he has served, the number of miles he has traveled, the amount of ferriage and toll he has paid, and the amount of compensation to which he is entitled. The certificate shall be receivable in payment of county taxes, and other county dues, and payable out of the county treasury.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:04 A.M.

Act No. 573

H. 1468—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 479, H. 461, Regular Session 1965 (Acts 1965, p. 693), which provides expense allowances for coroners in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 479, H. 461, Regular Session 1965 (Acts 1965, p. 693), is amended to read as follows:

“An Act to apply to all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census; providing expense allowances for coroners of such counties.”

Section 2. Section 1 of said Act No. 479, H. 461, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the coroner shall be entitled to receive an allowance for expenses in the amount of \$125 a month, which shall be payable out of the general fund of the county on the warrant of the court of county commissioners, board of revenue, or other like governing body of the county."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:05 A.M.

Act No. 574

H. 1469—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 235, H. 904, Regular Session 1965 (Acts 1965, p. 339), which provides further for redeeming land sold for taxes, transfers certain duties of the probate judge to the tax collector of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 235, H. 904, Regular Session 1965 (Acts 1965, p. 339), is amended to read as follows:

"An Act Relating to counties having populations of not less than 95,000 nor more than 115,000 according to the most recent or any subsequent federal decennial census; further providing for the procedure for redeeming lands sold for taxes in such counties; transferring certain duties of the probate judge to the tax collector; relieving the probate judge of such duties; and repealing conflicting Acts."

Section 2. Section 1 of said Act No. 235, H. 904, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the procedure for redeeming lands sold for taxes in such counties shall be the same as provided in Articles 5, Chapter 14, Title 51, Code of Alabama 1940, as amended, except that all such duties as are required of and performed by the probate judge shall be transferred to and be performed by the tax collector, and the probate judge shall be relieved of all such duties."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:06 A.M.

Act No. 575

H. 1470—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 of Act No. 69, H. 26, Special Session 1966 (Acts 1966, p. 92), which authorizes the county commission of certain counties classified on a population basis to appropriate and expend county funds for the purpose of providing contribution to non-profit Community Action Committee board, and groups heretofore formed in such counties under the Economic Opportunity Act of 1964, Public Law 88-452, 88th Congress, S. 2642 and approved by the Office of Economic Opportunity.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 69, H. 26, Special Session 1966 (Acts 1966, p. 92), is amended to read as follows:

“An Act Relating to all counties in the State of Alabama having a population of not less than 95,000 nor more than 115,000 inhabitants according to the last or any subsequent federal decennial census; authorizing the County Commission or other like governing body of such counties to set aside, appropriate, use and expend county funds or revenues for the purpose of providing contributions to non-profit Community Action Committees, boards and groups heretofore formed in such counties under the Economic Opportunity Act of 1964, Public Law 88-452, 88th Congress, S. 2642 and approved by the Office of Economic Opportunity.”

Section 2. Section 1 of said Act No. 69, H. 26, is amended to read as follows:

“Section 1. This Act shall apply in all counties having a population of not less than 95,000 nor more than 115,000 inhabitants according to the last or any subsequent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:07 A.M.

Act No. 576

H. 1471—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 of Act No. 127, H. 235, Special Session 1966 (Acts 1966, p. 162), which regulates the compensation of

bailiffs serving the circuit courts of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 127, H. 235, Special Session 1966 (Acts 1966, p. 162), is amended to read as follows:

“An Act To apply only in counties having populations of not less than 95,000 nor more than 115,000; regulating the compensation of bailiffs serving the circuit courts of such counties.”

Section 2. Section 1 of said Act No. 127, H. 235, is amended to read as follows:

“Section 1. Bailiffs serving in the circuit courts of counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, shall be entitled to compensation for performance of their duties, to be paid from the county treasury, as follows: For each bailiff who devotes full time to the office, a salary of \$400 a month; for each bailiff who serves part time, \$10 a day for each day's service, to be paid on the certificate of the judge of the court in which such service is rendered.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:08 A.M.

Act No. 577

H. 1472—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 176, H. 463, Regular Session 1965 (Acts 1965, p. 247), as last amended, which regulates the compensation and allowances of members of boards of education in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 176, H. 463, Regular Session 1965 (Acts 1965, p. 247), as last amended, is amended to read as follows:

“An Act To apply only in counties having populations of not less than 95,000 nor more than 115,000; regulating the compensation and allowances of members of boards of education of such counties.”

Section 2. Section 1 of said Act No. 176, H. 463, is amended to read as follows:

"Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the members of the county board of education shall each receive a salary of \$100 a month, which shall be payable out of the public school funds of the county. Such salary shall be his entire compensation for performance of his official duties; and he shall not receive any allowance for travel and hotel expenses incurred in attending meetings of the board."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:09 A.M.

Act No. 578

H. 1473—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 105, S. 251, Regular Session 1965 (Acts 1965, p. 165), which empowers the judge of probate to try inquisitions of lunacy with or without a jury; prescribes the manner of impaneling jurors where a jury trial is demanded in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 105, S. 251, Regular Session 1965 (Acts 1965, p. 165), is amended to read as follows:

"An Act Relating to counties having a population of not less than 95,000 nor more than 115,000: Empowering the judge of probate to try inquisitions of lunacy with or without a jury; prescribing the manner of impaneling jurors where a jury trial is demanded."

Section 2. Section 1 of said Act No. 105, S. 251, is amended to read as follows:

"Section 1. This act shall apply only in counties having a population of not less than 95,000 nor more than 115,000, according to the last or any subsequent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:10 A.M.

Act No. 579

H. 1474—Merrill, Stewart, Burgess

AN ACT

To amend the title and Section 1 of Act No. 456, H. 493, Regular Session 1967 (Acts 1967, p. 1148), which regulates the compensation of the judges of the juvenile and domestic relations courts in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 456, H. 493, Regular Session 1967 (Acts 1967, p. 1148) is amended to read as follows:

“An Act Relating to all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census; regulating the compensation of the judges of the juvenile and domestic relations courts in such counties.”

Section 2. Section 1 of said Act No. 456, H. 493, is amended to read as follows:

“Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the juvenile court commission shall be authorized to fix the compensation of the judge of the juvenile and domestic relations court at a sum not more than \$10,000 nor less than \$7,500. Such sum shall be payable monthly out of the county treasury upon the warrant of the judge of the juvenile and domestic relations court, drawn upon the county treasurer or proper custodian of county funds.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:11 A.M.

Act No. 580

H. 1476—Merrill, Stewart, Burgess

AN ACT

To amend the title and Section 1 of Act No. 442, H. 192, Regular Session 1967 (Acts 1967, p. 1115), which provides further for the compensation of the chairman and members of the county commission, repeals conflicting laws in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 442, H. 192, Regular Session 1967 (Acts 1967, p. 1115), is amended to read as follows:

"An Act Relating to all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, providing further for the compensation of the chairman and members of the county commission, repealing conflicting laws."

Section 2. Section 1 of said Act No. 442, H. 192, is amended to read as follows:

"Section 1. This act shall apply in and only in all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census. The chairman of the county commission, his successor shall be entitled to an annual salary of thirteen thousand, five hundred dollars (\$13,500) which sum shall be in lieu of all other compensation and allowances heretofore provided by law."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:12 A.M.

Act No. 581

H. 1477—Merrill, Burgess, Stewart
AN ACT

To provide further for the Court Reporters salary in all counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply to all counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census.

Section 2. The governing bodies of all such counties shall have the authority to establish the Circuit Court Reporters salary at \$10,000 a year to be paid from the general fund of said counties.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:13 A.M.

Act No. 582

H. 1478—Merrill, Burgess, Stewart

AN ACT

To amend the title and Section 1 of Act No. 197, H. 262, Special Session 1964 (Acts 1964, p. 260), which provides for the office, appointment, tenure, and compensation of a chief bailiff of the circuit courts of certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 197, H. 262, Special Session 1964 (Acts 1964, p. 260), is amended to read as follows:

“An Act To provide for a Chief Bailiff of the Circuit Court of any County having a population of not less than 95,000 nor more than 115,000, and to further provide for the appointment, tenure of office, and compensation of such Chief Bailiff.”

Section 2. Section 1 of said Act No. 197, H. 262, is amended to read as follows:

“Section 1. There is hereby created the position of Chief Bailiff of the Circuit Court in any County having a population of not less than 95,000 nor more than 115,000 according to the last or any subsequent Federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:14 A.M.

Act No. 583

H. 1479—Merrill, Burgess, Stewart

AN ACT

To provide for an expense allowance for the Tax Assessor, Tax Collector, Probate Judge, Circuit Court Clerk, Chairman of the County Commission, Judge of County Court and Register in Equity, Judge of Juvenile Court, Commissioner of Licenses, and Associate Commissioners in all counties having populations not less than 95,000 nor more than 115,000 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply to all counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census.

Section 2. The governing bodies of all such counties shall have authority to pay an annual expense allowance of the following sums to said officers in said counties;

(a) \$3,000 to the Tax Assessor, Tax Collector, Probate Judge, Circuit Court Clerk, Chairman of the County Commission, Judge of the County Court and Register in equity.

(b) \$2,000 to the Judge of Juvenile Court, Commissioner of Licenses.

(c) \$1,200 to the Associate Commissioners Automobile Allowance.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:16 A.M.

Act No. 584

H. 1480—Merrill, Stewart, Burgess

AN ACT

To amend the title and Section 1 of Act No. 1003, S. 825, Regular Session 1969 (Acts 1969, p. 1878), which provides for the payment of salary and expenses of an investigator appointed by the district attorney in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1003, S. 825, Regular Session 1969 (Acts 1969, p. 1878) is amended to read as follows:

“An Act Relating to counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census; providing for the payment by such counties of the salary and expenses of an investigator appointed by the district attorney of the judicial circuits in which such counties are located.”

Section 2. Section 1 of said Act No. 1003, S. 825, is amended to read as follows:

“Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the district attorney of the judicial circuits in which such counties are located may appoint an investigator to conduct investigations of alleged violations of law in the circuit. Such investigator shall be entitled to a salary not to exceed \$8400.00 per annum, payable in equal monthly installments, and the necessary expenses incurred in investiga-

tion. He shall be furnished an automobile by the county for which he is employed and such county shall pay the expenses thereof. The exact amount of salary shall be fixed by the district attorney, subject to the approval of the governing body of the county."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:17 A.M.

Act No. 585

H. 1102—Crowe, Naramore

AN ACT

Relating to all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census; to authorize an increase in the fees charged by the probate judge for the issuing of a marriage license, for performing the marriage ceremony and for the issuing of a marriage certificate in said counties.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply to all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census.

Section 2. The probate judge in all counties to which this act applies are hereby authorized to charge the following fees, which shall be in addition to any and all other fees and charges authorized by law, viz:

For the issuance of a marriage license\$5.00

For performing a marriage ceremony\$3.00

For the issuance of a certificate of marriage\$2.00

Section 3. All monies collected from said fees shall be paid by the probate judge of such counties into the general fund of the county.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:18 A.M.

Act No. 586

H. 1518—Merrill, Stewart, Burgess

AN ACT

To amend the title and Sections 1 and 2 of Act No. 170, H. 15, Special Session 1967 (Acts 1967, p. 217), which abolishes the office of clerk of the jury commission, provides that the circuit courts shall perform the duties of the abolished office, and authorizes the county to provide for employment of additional clerical help in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 170, H. 15, Special Session 1967 (Acts 1967, p. 217), is amended to read as follows:

“An Act to apply only in counties having populations of not less than 95,000 nor more than 115,000 abolishing the office of clerk of the jury commission, providing that the circuit court clerk shall perform the duties of clerk of the jury commission, fixing the compensation of circuit court clerk for performance of such additional duties and authorizing the county to provide for employment of additional clerical help by the circuit clerk to assist him in the performance of such duties.”

Section 2. Section 1 of said Act No. 170, H. 15, is amended to read as follows:

“Section 1. In all counties having populations of not less than 95,000 nor more than 115,000, according to the most recent federal decennial census, the office of clerk of the jury commission is abolished. The duties and functions of the clerk shall be performed by the clerk of the circuit court, who shall be designated as the executive secretary to the jury commission.”

Section 3. Section 2 of Act No. 170, H. 15, is amended to read as follows:

“Section 2.

In all counties coming within the purview of this Act the clerk of the circuit court shall be entitled to such additional clerical assistance, not to be less than \$250 per month, as may be needed to aid him in the performance of the duties imposed upon him by said Act, as determined by said clerk, payable by the court of county commissioners, board of revenue, or other like county governing body, upon the order of said clerk of circuit court as said executive secretary of said jury commission.

Section 4. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:19 A.M.

Act No. 587

H. 1120—Stubbs

AN ACT

To alter, re-arrange and extend the boundaries and corporate limits of the Town of Pelham, Alabama and so as to incorporate certain territory as described herein.

Be It Enacted by the Legislature of Alabama:

Section 1. To alter, re-arrange and extend the boundaries and corporate limits of the limits of the Town of Pelham, Alabama, so as to incorporate certain territory as described herein, to-wit:

Begin at the Northeast corner of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama; thence run in a Southerly direction along the East line of said Section 12 to the Southeast corner of said Section 12; thence run in a Easterly direction along the North line of the Northwest Quarter of the Northwest Quarter of Section 18, Township 20 South, Range 2 West to the Northeast corner of said quarter-quarter; thence run in a Southerly direction along the East line of said Northwest Quarter of Northwest Quarter and the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of said Section 18 to the Southeast corner of said Northwest Quarter of Southwest Quarter of said Section 18; thence run in a Easterly direction along the North line of the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter of said Section 18 to the Northeast corner of said Southwest Quarter of Southeast Quarter; thence run in a Southerly direction to it's intersection with the South line of said Section 18, said point being the Southeast corner of said Southwest Quarter of Southeast Quarter of said Section 18; thence continue in a Southerly direction along the East line of the Northwest Quarter of the Northeast Quarter and the Southwest Quarter of the Northeast Quarter of Section 19, Township 20 South, Range 2 West, to the Southeast corner of said Southwest Quarter of Northeast Quarter of said Section 19; thence run in a Westerly direction along the South line of said Southwest Quarter of Northeast Quarter to the Southwest corner of said quarter-quarter; thence run in a Southerly direction along the East line of the Northeast Quarter of the Southwest Quarter and the Southeast Quarter of the Southwest Quarter of said Section 19 to the Southeast corner of said Southeast Quarter of Southwest Quarter of said Section 19; thence run in a Westerly direction along the South line of said Section 19 to the Southwest corner of said Section 19; thence run in a Southerly direction along the East line of Section 25, Township 20 South, Range 3 West to the Southeast corner of the Southeast Quarter of the Northeast Quarter of said Section 25; thence run in a Westerly direction along the

South line of the Northeast Quarter of said Section 25 to the Southwest corner of said Northeast Quarter of Section 25, thence run in a Southerly direction along the East line of the Northeast Quarter of the Southwest Quarter of said Section 25 to the Southeast corner of said quarter-quarter; thence run in a Westerly direction along the South line of said quarter-quarter a distance of 1,050 feet, more or less, to it's intersection with the center line of a County Road; thence run Northwesterly along the center line of said County Road 1100 feet, more or less, to the point of intersection with the East right-of-way line of U.S. Highway # 31; thence run in a Northwesterly direction 750 feet, more or less, to the point of intersection with the West right-of-way line of the Louisville and Nashville Railroad and the West boundary line of Section 25, Township 20 South, Range 3 West; thence run to the Southeast corner of the North Half of the Northeast Quarter of the Southeast Quarter of Section 26, Township 20 South, Range 3 West; thence run in a Westerly Direction along the South line of said North Half of the Northeast Quarter of the Southeast Quarter to the Southwest corner of said North Half of Northeast Quarter of Southwest Quarter of said Section 26; thence run in a Northerly direction along the West line of the North Half of the Northeast Quarter of the Southeast Quarter and the West line of the Southeast Quarter of the Northeast Quarter of said Section 26; thence continue in a Northerly direction along the West line of the Northeast Quarter of the Northeast Quarter a distance of 785 feet; thence run in a Westerly direction parallel with the North line of said Section 26 to it's intersection with the West line of the Northeast Quarter of the Northwest Quarter of said Section 26; thence run in a Northerly direction along the West line of said Northeast Quarter of Northwest Quarter of said Section 26 to the Northwest corner of said quarter-quarter; thence continue in a Northerly direction to the Northwest corner of the Northeast Quarter of the Northwest Quarter of Section 23, Township 20 South, Range 3 West; thence continue in a Northerly direction to the Northwest corner of the Northeast Quarter of the Northwest Quarter of Section 14, Township 20 South, Range 3 West; thence run in an Easterly direction along the North line of said Section 14 to the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 11, Township 20 South, Range 3 West; thence run in a Northerly direction to the Northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 11; thence run in a Easterly direction to the Northeast corner of said Section 11; thence continue in an Easterly direction along the North line of Section 12, Township 20 South, Range 3 West, to the Southwest corner of the Southwest Quarter of the Southeast Quarter of Section 1, Township 20 South, Range 3 West; thence run in a Northerly direction along the center line of said Section 1 to

the Northwest corner of the South Half of the Northwest Quarter of the Northeast Quarter of said Section 1; thence run in a Easterly direction along the North line of the South Half of said Northwest Quarter of Northeast Quarter of said Section 1 and its extension thereof to its intersection with the East line of said Section 1; thence run in a Southerly direction 660 feet, more or less, to the Southeast corner of the Northeast Quarter of the Northeast Quarter of said Section 1; thence run in a Easterly direction along the North line of the Southwest Quarter of the Northwest Quarter of Section 6, Township 20 South, Range 2 West to its intersection with the Westerly right-of-way line of U.S. Highway # 31; thence run in a Northerly direction along said Westerly right-of-way line of U.S. Highway # 31 to its intersection with the North line of the South Half of the Northwest Quarter of the Northwest Quarter of said Section 6; thence run in an Easterly direction along the North line of said South Half of the Northwest Quarter of the Northwest Quarter and its extension thereof, to its intersection with the East line of the Northeast Quarter of the Northwest Quarter of Said Section 6; thence run in a Southerly direction along the center line of said Section 6 to the Southeast corner of the Southwest Quarter of said Section 6; thence run in a Westerly direction along the South line of said Southwest Quarter of Section 6 to the point of beginning.

Section 2. The substantive provisions of this Act shall become operative only if the Act is approved by the qualified electors who reside within that part of the territory hereinabove described which is not presently included within the corporate limits of the Town of Pelham, voting in a referendum election to be held on a day designated by the probate judge of Shelby County, not less than twenty nor more than forty days from the date of this enactment. The notice of the election shall be given by the probate judge of Shelby County, and the election shall be held, conducted in the manner prescribed by Article 2 of Chapter 5 of Title 37, Code of Alabama 1940, for giving notice of and conducting elections on the question of annexing territory to cities of twenty-five thousand or more inhabitants insofar as such provisions of said article may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the probate judge, nor need a plat or map of the territory to be annexed be filed with the probate judge. The question shall be on the adoption of Act to be introduced in a Session of the Legislature, which alters, rearranges and extends the corporate limits of the Town of Pelham in Shelby County. Each voter may furnish his own ballot, and if he desires to vote for the adoption of said Act there shall be written or printed on such ballot the word "Yes". If he desires to vote against the adoption of such Act the word "No" shall be written

or printed on his ballot. The Town of Pelham shall pay all costs and expenses incident to the election.

If a majority of the votes cast in the election are "yes" the provisions of this Act shall become operative immediately. If the majority are "no" this Act shall have no further effect.

Approved August 31, 1971.

Time: 10:20 A.M.

Act No. 588

H. 1135—Turnham

AN ACT

To authorize the coroner of Lee County to appoint a deputy.

Be It Enacted by the Legislature of Alabama:

Section 1. The coroner of Lee County is hereby authorized to appoint a deputy, who shall hold office at the pleasure of the coroner and perform such duties as the coroner may direct. Such deputy coroner shall be paid by the coroner and shall not be entitled to compensation from the county.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:21 A.M.

Act No. 589

H. 1136—Turnham

AN ACT

Relating to the official court reporter of the thirty-seventh judicial circuit; authorizing the Lee County Commission to pay such reporter additional compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. The Lee County Commission in its discretion may pay the official court reporter of the thirty-seventh judi-

cial circuit additional compensation in the amount of Two Hundred Twenty-five Dollars (\$225) per month. The compensation provided for herein shall be in addition to all other compensation now provided by law and shall be paid from the general fund of Lee County.

Section 2. This Act is cumulative.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:22 A.M.

Act No. 590

H. 1137—Turnham, Brassell, Adams

AN ACT

To provide for a District Attorney's Fund for the Thirty-seventh Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created a fund to be designated the "District Attorney's Fund" of the Thirty-seventh Judicial Circuit, which fund shall be at the disposal of the District Attorney of the Thirty-seventh Judicial Circuit of Alabama, and shall be drawn upon by him in the manner hereinafter provided and expended by him for the payment of any and all expenses to be incurred by him for law enforcement and in the discharge of the duties of his office, as he sees fit.

Section 2. Said fund shall be deposited in any banks in the Thirty-seventh Judicial Circuit, which shall be an approved depository for the public funds of said circuit, as hereinafter provided, and shall be payable upon the order of the District Attorney of the Thirty-seventh Judicial Circuit by check signed by him as such officer.

Section 3. All solicitor's or district attorney's fees hereafter taxed as costs and collected in all criminal cases in all courts of the county comprising the Thirty-seventh Judicial Circuit as provided by the laws of Alabama shall be deposited by the judge, clerk, or other proper custodian of funds so taxed in such courts to the credit of the District Attorney's Fund hereinbefore provided in such depository as shall be designated by the District Attorney of the Thirty-seventh Judicial Circuit and these funds so deposited, together with all funds heretofore deposited to the "Lee County Solicitor's Fund," shall constitute

the District Attorney's Fund herein created to be expended as herein provided.

Section 4. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:23 A.M.

Act No. 591

H. 1139—Turnham, Adams, Brassell
AN ACT

To amend the title and Section 1 of Act No. 931, H. 1484, Regular Session 1961 (Acts 1961, p. 1497), which authorizes the appointment of juvenile court officers in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 931, H. 1484, Regular Session 1961 (Acts 1961, p. 1497), is amended to read as follows:

"An Act Authorizing the appointment of juvenile court officers in counties having populations of not less than 60,000 nor more than 65,000, according to the 1970 or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 931, H. 1484, is amended to read as follows:

"Section 1. This Act shall apply in counties having populations of not less than 60,000 nor more than 65,000, according to the 1970 or any subsequent federal decennial census, which have statutory inferior courts exercising juvenile court jurisdiction."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:24 A.M.

Act No. 592

H. 1140—Turnham, Adams, Brassell
AN ACT

To amend the title and Section 1 of Act No. 109, H. 105, Special Session 1964 (Acts 1964, p. 169), which provides for and regulates the

licensing and operation of, and hunting on, certain privately owned hunting preserves; provides for fees, and collection and distribution thereof, for such licenses, and penalties for violations of this act, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 109, H. 105, Special Session 1964 (Acts 1964, p. 169), is amended to read as follows:

"An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 60,000 nor more than 65,000 according to the 1970 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act."

Section 2. Section 1 of said Act No. 109, H. 105, is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 60,000 nor more than 65,000 according to the 1970 or any subsequent federal decennial census.

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:25 A.M.

Act No. 593

H. 1141—Turnham, Brassell, Adams

AN ACT

To amend the title and Section 1 of Act No. 305, H. 559, Regular Session 1965 (Acts 1965, p. 421), which authorizes the county governing body to appropriate a contingent fund out of county funds to be used for purposes not otherwise provided by law, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 305, H. 559, Regular Session 1965 (Acts 1965, p. 421), is amended to read as follows:

"An Act Relating to counties having a population of not less than 60,000 nor more than 65,000 according to the most recent federal decennial census; to authorize the county governing body of any such county to appropriate a Contingent Fund out of county funds and to use such Fund for purposes not otherwise provided by law."

Section 2. Section 1 of said Act No. 305, H. 559, is amended to read as follows:

“Section 1. This Act shall apply only to counties having a population of not less than 60,000 nor more than 65,000 according to the most recent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:26 A.M.

Act No. 594

H. 1142—Turnham, Brassell, Adams

AN ACT

To amend the title and Section 1 of Act No. 676, S. 814, Regular Session 1969 (Acts 1969, p. 1211), which permits banks to establish, etc. certain branch offices within the county limits for certain purposes with consent of the state superintendent of banks, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 676, S. 814, Regular Session 1969 (Acts 1969, p. 1211), is amended to read as follows:

“An Act To permit banks now or hereafter situated in counties having a population according to the most recent federal decennial census of not less than 60,000 nor more than 65,000 inhabitants, to establish, maintain, or operate new branches or branch banks, branch offices, branch agencies, additional offices or branch places of business within the limits of such county in which said bank is situated, for the receipt of deposits, payment of checks, lending of money, and the conduct of a general banking and trust business, by and with the written consent of the state superintendent of banks.”

Section 2. Section 1 of said Act No. 676, S. 814, is amended to read as follows:

“Section 1. This act shall apply in, and only in, counties having a population of not less than 60,000 inhabitants nor more than 65,000 inhabitants, according to the most recent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:27 A.M.

Act No. 595

H. 1143—Turnham, Brassell, Adams
AN ACT

To amend the title and Section 1 of Act No. 489, S. 635, Regular Session 1969 (Acts 1969, p. 949), which provides for payment by housing authorities or redevelopment agencies, on appeal from certain condemnation proceedings, of all reasonable costs of the proceedings in the appellate court, including a reasonable attorney's fee except in certain instances, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 489, S. 635, Regular Session 1969 (Acts 1969, p. 949), is amended to read as follows:

"An Act Providing for payment by housing authorities or redevelopment agencies, on appeal from condemnation proceedings instituted in counties with any urban renewal or other redevelopment plan or project of all reasonable costs of the proceedings in the appellate court, including a reasonable attorney's fee, except in certain instances, in all counties of this state with populations of not less than 60,000 nor more than 65,000."

Section 2. Section 1 of said Act No. 489, S. 635, is amended to read as follows:

"Section 1. In all counties of this state having a population of not less than 60,000 nor more than 65,000, according to the last or any subsequent federal decennial census, any regional, district, county, or municipal housing authority or redevelopment agency which shall have instituted condemnation proceedings in accordance with Code of Alabama 1940, Title 19, in connection with any urban renewal or other redevelopment plan or project undertaken pursuant to Act No. 553, H. 145, Regular Session 1955 (Acts 1955, p. 1210), shall pay all reasonable costs of the proceedings in the appellate court upon appeal from an order of condemnation or as provided by Code of Alabama 1940, Title 19, Section 20, including reasonable attorney's fees to be assessed by that court; provided however, that said authority or agency shall not be required to pay costs or attorney's fees on appeal by owners or other parties interested in each of the severable tracts of land wherein such orders of condemnation shall be affirmed."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:28 A.M.

Act No. 596

H. 1144—Turnham, Brassell, Adams
AN ACT

To amend the title and Section 1 of Act No. 552, H. 381, Regular Session 1967 (Acts 1967, p. 1303), which provides, where voting machines

are authorized, for the dividing of voting precincts into territories and designating a voting center therein; prescribing the number of voting machines at such centers, and providing for election officers at such centers, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 552, H. 381, Regular Session 1967 (Acts 1967, p. 1303), is amended to read as follows:

"An Act To apply only in counties in the state having a population of not less than 60,000 nor more than 65,000 inhabitants, according to the last or any subsequent federal decennial census, where in the use of voting machines has been, or shall be, authorized; to provide that the county governing body in regulating and providing for the use of voting machines in all elections in the county may, in the manner herein prescribed, divide any voting precinct of the county into territories, designate in each territory a voting center at which the qualified electors of the territory so designated may vote, and prescribe the number of voting machines to be maintained at each voting center; and to provide election officers for each voting center designated by the county governing body, prescribe the duties of such election officers, and fix their compensation."

Section 2. Section 1 of said Act No. 552, H. 381, is amended to read as follows:

"Section 1. This Act shall apply only in counties of the state having a population of not less than 60,000 nor more than 65,000 inhabitants, according to the last or any subsequent federal decennial census. Unless a contrary intent appears from the context, as used herein, the word "county" means any county to which this Act applies; the phrase "county governing body" means the court of county commissioners, board of revenue, or other like governing body of any such county; the word "election" means any general, special, or primary election held in the county, including a district, municipal, county, state or federal election; and the term "voting center" means any place in the county which the county governing body designates as a place where a voting machine or voting machines will be maintained or operated at elections."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:29 A.M.

Act No. 597

H. 1145—Turnham, Brassell, Adams
AN ACT

To amend the title and Section 1 of Act No. 1120, H. 732, Regular Session 1969 (Acts 1969, p. 2076), which regulates the compensation of

bailiffs for the grand jury and bailiffs actually serving in court in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1120, H. 732, Regular Session 1969 (Acts 1969, p. 2076), is amended to read as follows:

“An Act To regulate the compensation of bailiffs for the grand jury and bailiffs actually serving in court in every county having a population of not less than 60,000 nor more than 65,000.”

Section 2. Section 1 of said Act No. 1120, H. 732, is amended to read as follows:

“Section 1. Bailiffs for the grand jury and bailiffs actually serving in court in any county having a population of not less than 60,000 nor more than 65,000 inhabitants, according to the most recent federal decennial census, shall receive ten dollars a day for every day they serve as such. The compensation of bailiffs in such counties shall be paid in the same manner and from the same fund as heretofore provided by law for paying bailiffs in such counties.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:30 A.M.

Act No. 598

H. 1146—Turnham, Brassell, Adams
AN ACT

To amend the title and Section 1 of Act No. 972, H. 1407, Regular Session 1969 (Acts 1969, p. 1718), which fixes pistol permit fees and provides for deposit and use of such fees in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 972, H. 1407, Regular Session 1969 (Acts 1969, p. 1718), is amended to read as follows:

“An Act Relating to counties having populations of not less than 60,000 nor more than 65,000; providing further for law enforcement in such counties; fixing the fee for the issuance of pistol permits; providing for the deposit of such fees in a fund to be designated as the sheriff's fund; and providing for the use of such fund.”

Section 2. Section 1 of said Act No. 972, H. 1407, is amended to read as follows:

“Section 1. In all counties in this state having populations of not less than 60,000 nor more than 65,000, according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama 1940, Title 14, Section 177 shall be five dollars, which shall be collected by the sheriff.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:31 A.M.

Act No. 599

H. 1147—Turnham, Brassell, Adams
AN ACT

To amend the title and Section 1 of Act No. 250, H. 639, Regular Session 1963 (Acts 1963, p. 660), which changes the method of electing, the designation of, and term of office of, members of the Board of Commissioners of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 250, H. 639, Regular Session 1963 (Acts 1963, p. 660), is amended to read as follows:

“An Act Relating to cities having a population of not less than 17,000 nor more than 18,000, and not less than 21,000 nor more than 23,000, according to the 1970 or any subsequent decennial census of the population of the United States; changing the method of electing, the designation of, and fixing the term of office of, members of the Board of Commissioners of any such city.”

Section 2. Section 1 of said Act No. 250, H. 639, is amended to read as follows:

“Section 1. The members of the Board of Commissioners of any City under the Commission form of government, having a population of not less than 17,000 nor more than 18,000, and not less than 21,000 nor more than 23,000, inhabitants according to the 1970, or any subsequent decennial census of the population of the United States, shall be elected on the third Tuesday in August, 1963, and every four years thereafter, and such Commissioners shall hold office for a term of four years from the first Monday in October following, and until their successors are elected and assume the duties of office.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:32 A.M.

Act No. 600

H. 1159—May

AN ACT

To amend the title and Section 1 of Act No. 596, S. 779, Regular Session 1969 (Acts 1969, p. 1083), which provides for the establishment, etc. of public law libraries and the taxing and collection of law library fees as items of court costs in certain cases in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 596, S. 779, Regular Session 1969 (Acts 1969, p. 1083) is amended to read as follows:

“An Act Relating to counties having populations of not less than 34,875 nor more than 36,000 according to the most recent federal decennial census; to authorize and provide for the establishment, maintenance, equipping, operation, and financing of public law libraries; to provide for the taxing and collection of law library fees as items of court costs in cases docketed in certain courts within such counties; and to repeal conflicting laws.”

Section 2. Section 1 of Act No. 596, S. 779, is amended to read as follows:

“Section 1. In all counties having populations of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census, in each civil or quasi-civil action at law, suit in equity, criminal or quasi-criminal case or any other proceeding filed in, arising in, or brought by appeal, certiorari, or otherwise in the circuit courts, inferior courts or other courts in such counties, there shall be taxed as part of the costs the sum of one dollar (\$1). The fees taxed under this act shall be collected as other costs in such cases are collected; and when collected by the clerks or other collecting officers of such courts (including the register of the circuit court) shall be paid to the treasurer or depository as herein set forth. The sums so paid over to the county treasury or depository shall be maintained in a separate account in the county treasury or depository designated as the county law library fund. Said funds shall be expended by the judges of the circuit courts of said counties for establishing, maintaining, equipping and operating a law library

within such counties. The said judges shall draw warrants on the county treasury or depository in making expenditures for the purposes contemplated in this act and shall indicate on the warrants the fund against which the warrants are drawn. The said items of cost referred to above shall be designated as law library fees; and when any part of the costs in a case has been paid, the amount necessary for the payment of said fee shall be applied thereto before applying any of the amount paid as costs to any other item of costs. On or before the tenth day of each month, the clerks or other collecting officers of the courts (including the register of the circuit court) shall pay over to the county treasurer or depository all amounts collected as law library fees prior to the first day of the month. The management of the law library is rested in the judges of the circuit courts in said counties. All books or other property purchased with the funds produced by this act shall be the property of said counties."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:33 A.M.

Act No. 601

H. 1160—May

AN ACT

To amend the title and Section 1 of Act No. 651, S. 735, Regular Session 1969 (Acts 1969, p. 1181), which provides for a temporary chairman of the county governing body should the elected chairman become incapacitated, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 651, S. 735, Regular Session 1969 (Acts 1969, p. 1181) is amended to read as follows:

"An Act Relating to counties having a population of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census; providing for a temporary chairman of the board of revenue, board of county commissioners, or other like governing body of said counties should the elected chairman become ill or otherwise incapacitated."

Section 2. Section 1 of Act No. 651, S. 735, is amended to read as follows:

"Section 1. This Act shall apply to the Chairman of the Board of Revenue, Board of County Commissioners, or other like

governing body of every county in the State having a population of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:34 A.M.

Act No. 602

H. 1161—May

AN ACT

To amend the title and Section 1 of Act No. 650, S. 734, Regular Session 1969 (Acts 1969, p. 1180), which pertains to the governing body and county engineers of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 650, S. 734, Regular Session 1969 (Acts 1969, p. 1180), is amended to read as follows:

"An Act Relating to counties having a population of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census; pertaining to the board of revenue, board of county commissioners, or other like governing body and to the county engineer of said counties."

Section 2. Section 1 of said Act No. 650, S. 734, is amended to read as follows:

"Section 1. This Act shall apply to the Board of Revenue, Board of County Commissioners, or other like governing body and to the county engineer of every county in the state having a population of not less than 34,875, nor more than 36,000, according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:35 A.M.

Act No. 603

H. 1162—May

AN ACT

To amend the title and Section 1 of Act No. 584, S. 676, Regular Session 1969 (Acts 1969, p. 1071), which requires the teaching of Bible

history in all public high schools and provides for instructors therefor, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 584, S. 676, Regular Session 1969 (Acts 1969, p. 1071), is amended to read as follows:

“An Act To require the teaching of Bible history in all public high schools in counties having populations of not less than 34,875 nor more than 36,000 according to the most recent federal decennial census; to provide for instructors of such courses; to repeal conflicting laws and specifically to repeal and supersede conflicting provisions of Section 322 and 408 of Title 52, Code of Alabama 1940, as amended to the extent of such conflict as to all counties to which this act applies.”

Section 2. Section 1 of said Act No. 584, S. 676, is amended to read as follows:

“Section 1. In all counties having populations of not less than 34,875 nor more than 36,000 according to the most recent federal decennial census, Bible history shall be offered as an elective course in all high schools of the public school systems in such counties.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:36 A.M.

Act No. 604

H. 1163—May

AN ACT

To amend the title and Section 1 of Act No. 277, S. 535, Regular Session 1969 (Acts 1969, p. 609), which provides further for the compensation of the county solicitor or deputy district attorney in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 277, S. 535, Regular Session 1969 (Acts 1969, p. 609), is amended to read as follows:

“An Act To provide further for the compensation of the county solicitor or deputy district attorney in all counties having populations of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census.”

Section 2. Section 1 of said Act No. 277, S. 535, is amended to read as follows:

"Section 1. In all counties having populations of not less than 34,875 nor more than 36,000 according to the most recent federal decennial census, the salary of the county solicitor or deputy district attorney shall be six thousand dollars (\$6,000) per annum. Such salary shall be paid out of the county treasury in equal monthly installments in the same manner as other county officers are paid."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:37 A.M.

Act No. 605

H. 1164—May

AN ACT

To amend the title and Section 1 of Act No. 235, S. 452, Regular Session 1969 (Acts 1969, p. 566), which prohibits the sale of alcoholic beverages in certain places; provides that the Act shall not be construed as authorizing the sale of such beverages at any other places in which a majority of the qualified electors voting at a referendum have voted that the county shall be dry, and prescribes penalties for violations, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 235, S. 452, Regular Session 1969 (Acts 1969, p. 566), is amended to read as follows:

"An Act Relating to counties having a population of not less than 34,875 nor more than 36,000 inhabitants, according to the last or any subsequent federal decennial census; prohibiting the sale of alcoholic beverages in certain places in such counties; providing that the Act shall not be construed as authorizing or legalizing the sale of alcoholic beverages at any other places in any such county in which a majority of the qualified electors of the county voting at a referendum held for that purpose have voted that the county shall be a dry county; prescribing penalties for violations of the Act."

Section 2. Section 1 of said Act No. 235, S. 452, is amended to read as follows:

"Section 1. This Act shall apply only in counties having a population of not less than 34,875 nor more than 36,000 inhabitants according to the last or any subsequent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:38 A.M.

Act No. 606

H. 1165—May

AN ACT

To amend the title and Section 1 of Act No. 122, H. 477, Regular Session 1965 (Acts 1965, p. 187), which provides for the licensing of and regulation of hunting on certain privately owned hunting preserves; prescribes fees for such licenses and collection and distribution thereof, and prescribes penalties for violations, in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 122, H. 477, Regular Session 1965 (Acts 1965, p. 187), is amended to read as follows:

“An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 34,875 nor more than 36,000 according to the 1970 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act.”

Section 2. Section 1 of said Act No. 122, H. 477, is amended to read as follows:

“Section 1. This Act shall apply only in counties having populations of not less than 34,875 nor more than 36,000 according to the 1970 or any subsequent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:39 A.M.

Act No. 607

H. 1166—May

AN ACT

To amend the title and Section 1 of Act No. 483, H. 809, Regular Session 1965 (Acts 1965, p. 697), which authorizes the Director of Conservation to open a season for the hunting of female deer or unantlered male deer, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 483, H. 809, Regular Session 1965 (Acts 1965, p. 697) is amended to read as follows:

“An Act To authorize the Director of Conservation to open a season in counties having a population of not less than 34,875 nor more than 36,000, for the hunting of female deer or unantlered male deer.”

Section 2. Section 1 of Act No. 483, H. 809, is amended to read as follows:

“Section 1. Any law of the State of Alabama to the contrary notwithstanding, the Director of Conservation is hereby authorized to open a season in counties having a population of not less than 34,875 nor more than 36,000 for the hunting, taking, capturing and killing of female deer or unantlered male deer by a duly promulgated regulation when, in his best judgment, he deems it necessary for biological reasons or because of crop damage to open the season on such deer.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:40 A.M.

Act No. 608

H. 1167—May

AN ACT

To amend the title and Section 1 of Act No. 479, H. 665, Regular Session 1967 (Acts 1967, p. 1171), which provides that the regulation of the use of voting machines may be accomplished by the dividing of any voting precinct into territories in which a voting place may be designated, the setting of the number of voting machines in each such place, and the providing of election officers for each voting place, and provides the duties and compensation of such election officers, in certain counties classified on a population basis and according to whether voting machines have been or shall be authorized.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 479, H. 665, Regular Session 1967 (Acts 1967, p. 1171), is amended to read as follows:

“An Act To apply only in counties in the state having a population of not less than 34,875 nor more than 36,000 inhabitants, according to the last or any subsequent federal decennial census, wherein the use of voting machines has been, or shall be, authorized; to provide that the county governing body in regulating and providing for the use of voting machines in all

elections in the county may, in the manner herein prescribed, divide any voting precinct of the county into territories, designate in each territory a voting place at which the qualified electors of the territory so designated may vote, and prescribe the number of voting machines to be maintained at each voting place; and to provide election officers for each voting place designated by the county governing body, prescribe the duties of such election officers, and fix their compensation."

Section 2. Section 1 of said Act No. 479, H. 665, is amended to read as follows:

"Section 1. This Act shall apply only in counties of the state having a population of not less than 34,875 nor more than 36,000 inhabitants according to the last or any subsequent federal decennial census. Unless a contrary intent appears from the context, as used herein, the word "county" means any county to which this Act applies; the phrase "county governing body" means the court of county commissioners, board of revenue, or other like governing body of any such county; the word "election" means any general, special, or primary election held in the county, including a district, municipal, county, state or federal election; and the term "voting place" means any place in the county which the county governing body designates as a place where a voting machine or voting machines will be maintained or operated at elections."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:41 A.M.

Act No. 609

H. 465—Pruitt

AN ACT

To authorize certain fiduciaries to convert, exchange or surrender any security as defined in this Act and to accept, receive and retain any other security as a result of any merger, reorganization, tender, exchange offer or other business transaction as enumerated in this Act; to provide that this Act shall apply to any security with respect to which this Act gives authority to a fiduciary no matter when the fiduciary relationship was established or when said security was acquired; to provide that the invalidity of any section, part or provision of this Act shall not affect the validity of the remaining portion of this Act; to repeal all laws or parts of laws in conflict with the provisions of this Act and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. As used in this Act unless the context or subject matter otherwise requires:

(1) "Trust" means an express trust created by a written instrument, including a will, whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary or beneficiaries, or both.

(2) "Trust institution" means any state bank, any national bank, or corporation, including a trust company, authorized to act in a fiduciary capacity.

(3) "Fiduciary" means any trust institution or natural person acting as a trustee of a trust, an executor, an administrator with the will annexed, an administrator de bonis non, an administrator, a guardian, or a conservator, whether solely or together with others, regardless of how or by whom appointed; "fiduciary" also includes fiduciaries, a successor, substitute or added fiduciary, and the successor in interest of a deceased fiduciary.

(4) "Security" includes any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; collateral trust certificate; transferable share; trustees' share; investment trust debenture, unit, share or bond; voting trust certificate; or, in general, any interest or instrument commonly known as a security; or with respect to any of the foregoing any certificate (including a temporary or interim certificate) of interest or participation, any receipt or certificate of deposit, or any warrant or right to subscribe or purchase.

Section 2. Authority With Respect to Certain Securities. A fiduciary which is authorized by the governing instrument, by court decree, or by law to hold and retain a particular security, including a security issued in its individual corporate capacity by the fiduciary or any of the fiduciaries or any affiliated, associated or related issuer, is authorized, unless expressly prohibited by the governing instrument or by court decree, to convert, exchange or surrender the particular security for, or to accept, receive, hold and retain, any other security or securities

- (i) into which the particular security may be converted,
- (ii) for which the particular security may be exchanged,
- (iii) which may be issued in lieu of or in addition to the particular security, or
- (iv) which may be derived from or declared on the particular security, as a result of any merger; consolidation; com-

mination; reorganization; recapitalization; change of charter or name; dividend (in stock or otherwise); distribution; stock split; liquidation; exchange; tender offer; sale or lease of any or all of its business, properties, assets, rights, privileges or franchises; formation or organization of, or issuance of a security or securities by, a corporation or trust institution which is or becomes affiliated or associated with or related to the corporation or trust institution which issued the particular security; provision of, or applicable to, the particular security; or transaction similar to any one or more of the above, with the same rights, powers, authorities and duties as the fiduciary had with respect to the particular security, whether any such other security or the business of the issuer of such other security is substantially equivalent to the particular security or the business of the issuer of the particular security, whether any such other security is a legal investment of trust funds, whether there is a conflict of interest, and whether any such other security is a security issued in its individual corporate capacity by the fiduciary or any of the fiduciaries or by a corporation or trust institution which is or becomes affiliated or associated with or related to the fiduciary or any of the fiduciaries.

Section 3. Applicability. This Act shall apply to any security with respect to which Section 2 of this Act gives authority to a fiduciary, whether the fiduciary relationship was established before or after the effective date of this Act and whether such security was acquired before or after the effective date of this Act.

Section 4. Severability. In the event any section, sentence, clause, phrase, part or provision of this Act shall be declared invalid by any court of competent jurisdiction, such action shall not affect the validity of the remaining sections, sentences, clauses, phrases, parts or provisions of this Act, which shall continue effective.

Section 5. Repeal of Inconsistent Laws. All laws or parts of laws in conflict with the provisions of this Act are, to the extent of such conflict, hereby repealed.

Section 6. Effective Date. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 1, 1971.

Time: 1:00 P.M.

Act No. 610

H. 793—Boles, Parker (H), Jones (E)
AN ACT

To validate, in certain cases, the incorporation of public corporations attempted to be organized under the provisions of Act No. 107 adopted

at the 1965 First Special Session of the Legislature of Alabama, as amended, and invalid because of any irregularity in the procedure for incorporation.

Be It Enacted by the Legislature of Alabama:

Section 1. In all cases where there has heretofore been an attempt to incorporate a public corporation under the provisions of Act No. 107 adopted at the 1965 First Special Session of the Legislature of Alabama, as amended, and a certificate of incorporation with respect to such corporation has been filed in the office of the Judge of Probate of the county in which such corporation was sought to be incorporated, but the attempted incorporation is invalid because of some irregularity in the procedure followed, the attempted incorporation of such public corporation with respect to which such a certificate of incorporation has been filed shall be and hereby is validated ab initio, notwithstanding any irregularity in the procedure for incorporation of such corporation, including (without limiting the generality of the foregoing) (a) the failure of the Judge of Probate in whose office such certificate of incorporation was filed to examine such certificate of incorporation or to enter an appropriate order with respect thereto; (b) the failure of the governing body of the county to whom application was made for the incorporation of such corporation to adopt the resolution required by Section 3 of the said Act No. 107, as amended, or to include in such resolution the appropriate findings; (c) the failure of the persons making such application to the county governing body to sign the certificate of incorporation so filed in the office of the Judge of Probate; (d) the fact that the certificate of incorporation so filed was not signed by not less than three of the persons making such application to the county governing body, (e) the failure to file the certificate of incorporation within the time specified by statute after adoption by the county governing body of the appropriate resolution; (f) the failure to attach to the certificate of incorporation any one or more of the documents required to be attached thereto at the time of such incorporation, or (g) the inclusion in the certificate of incorporation of any matter not authorized to be included therein or contrary to the statutory requirements with respect to such corporation.

Section 2. This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 1, 1971.

Time: 2:45 P.M.

Act No. 611

H. 1168—May

AN ACT

To amend the title and Section 1 of Act No. 193, S. 79, Special Session 1969 (Acts 1969, p. 255), which provides for the payment or reimbursement to all members of the county governing body of their actual expenses incurred in performing their duties outside the county, including attendance at certain conventions, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 193, S. 79, Special Session 1969 (Acts 1969, p. 255) is amended to read as follows:

“An Act Relating to counties having populations of not less than 34,875 nor more than 36,000; according to the most recent federal decennial census; providing for the payment or reimbursement by said counties to the members, including the chairman, of the board of revenue, court of county commissioners, or other like governing body, of their actual expenses incurred in the performance of their duties outside the county, including expenses incurred by them in attending conventions of the National Association of County Commissioners and the Alabama Association of County Commissioners.”

Section 2. Section 1 of Act No. 193, S. 79, is amended to read as follows:

“Section 1. In addition to all salaries, travel and other expenses now provided or allowed by law to be paid to them, each member, including the chairman, of the board of revenue, court of county commissioners, or other like governing body of every county in the state having a population of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census, shall be paid or reimbursed by the county for his actual expenses incurred in the performance of his duties outside the county of his residence, including expenses incurred in attending conventions of the National Association of County Commissioners and the Alabama Association of County Commissioners. Expenses for attending conventions shall be limited to necessary expenses of travel to and from such officer's home to the place of such convention and to his reasonable expenses actually incurred for maintenance during the time he is participating in such convention. Provided, that the total amount of all expenses allowed any one member of the county governing body, including the chairman, shall not exceed \$500.00 in any one year.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:43 A.M.

Act No. 612

H. 1169—May

AN ACT

To amend Section 9 of Title 19, Code of Alabama 1940, as last amended, which relates to the condemnation of property already devoted to public use, to exempt this section from application to certain railroad right-of-way crossings, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9 of Title 19, Code of Alabama 1940, as last amended, is amended to read as follows:

“Section 9. Property already devoted to public use, how condemned.—If the property sought to be condemned, or any portion thereof, or interest therein, has already been subjected to or devoted to a public use, such land or portion thereof, or interest therein, shall not be taken for another and different character of public use unless an actual necessity for the specific land or portion thereof or interest therein shall be alleged and proven, and unless it be alleged and proven that such other and different character of public use will not materially interfere with the public use to which such property is already subjected or devoted. Provided, however, that this section shall not apply to any crossing, at grade or otherwise, of the right-of-way of any railway company, when such crossing is made by any state highway, county road or city street within counties having populations of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census.”

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:43 A.M.

Act No. 613

H. 1170—May

AN ACT

To amend the title and Section 1 of Act No. 130, H. 372, Regular Session 1969 (Acts 1969, p. 404), which authorizes county boards of education to appoint the superintendent of education, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 130, H. 372, Regular Session 1969 (Acts 1969, p. 404) is amended to read as follows:

“An Act To authorize county boards of education in all counties having a population of not less than 34,875 nor more than 36,000, to appoint the superintendent of education for such counties.”

Section 2. Section 1 of said Act No. 130, H. 372, is amended to read as follows:

“Section 1. In all counties having a population of not less than 34,875 nor more than 36,000, the boards of education of such counties are hereby authorized to appoint a superintendent of education at the expiration of the term of the present superintendent in all such counties. Said superintendent shall be appointed to serve at the pleasure of the county board of education.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:44 A.M.

Act No. 614

H. 1171—May

AN ACT

To amend the title and Section 1 of Act No. 187, S. 376, Regular Session 1969 (Acts 1969, p. 502), which regulates the compensation of jurors in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 187, S. 376, Regular Session 1969 (Acts 1969, p. 502), is amended to read as follows:

“An Act To regulate the compensation of jurors in counties having populations of not less than 34,875 nor more than 36,000.”

Section 2. Section 1 of said Act No. 187, S. 376, is amended to read as follows:

“Section 1. In all counties having populations of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census, regular jurors, grand and petit, shall

each be entitled to ten dollars (\$10) for each day's service, five cents for each mile traveled in going to and returning from court, and ferriage and toll, to be proved by the oath of the juror before the clerk of the court. The clerk shall give each juror a certificate, stating therein the number of days he has served, the number of miles he has traveled, the amount of ferriage and toll he has paid, and the amount of compensation to which he is entitled. The certificate shall be receivable in payment of county taxes, and other county dues, and payable out of the county treasury."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:45 A.M.

Act No. 615

H. 1172—May

AN ACT

To amend the title and Section 1 of Act No. 205, S. 375, Regular Session 1969 (Acts 1969, p. 524), which fixes the fee for the issuance of pistol permits by the sheriff and provides for the distribution and use thereof, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 205, S. 375, Regular Session 1969 (Acts 1969, p. 524), is amended to read as follows:

"An Act Relating to counties having populations of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census; fixing the fee for the issuance of pistol permits by the sheriff and providing for the distribution and use of such fees."

Section 2. Section 1 of said Act No. 205, S. 375, is amended to read as follows:

"Section 1. In all counties having populations of not less than 34,875 nor more than 36,000, according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol concealed on or about the person or in a vehicle as provided in Code of Alabama 1940, Title 14, Section 177 shall be five dollars (\$5.00), which shall be collected by the sheriff."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:46 A.M.

Act No. 616

H. 1173—May

AN ACT

To amend the title and Section 1 of Act No. 214, S. 293, Regular Session 1969 (Acts 1969, p. 533), which authorizes the boards of registrars to meet an additional ten days per year and to be paid a travel allowance, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 214, S. 293, Regular Session 1969 (Acts 1969, p. 533), is amended to read as follows:

“An Act Relating to counties having a population of not less than 34,875 nor more than 36,000; to authorize the boards of registrars in such counties to meet an additional ten days per year and to be paid a travel allowance.”

Section 2. Section 1 of said Act No. 214, S. 293, is amended to read as follows:

“Section 1. In all counties having a population of not less than 34,875 nor more than 36,000 according to the most recent federal decennial census, the boards of registrars shall be authorized to meet ten days per year in addition to the regular registration days provided by law outside of county seat in municipalities to be designated by the county board of revenue. Each registrar shall receive the same per diem pay as provided by law for other registration days, to be paid in the same manner and disbursed by the judge of probate. Chairman of board of registrar shall also receive an allowance for actual travel expenses not to exceed \$100 per year, payable from the General Fund of Escambia County.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:47 A.M.

Act No. 617

H. 1174—May

AN ACT

To amend the title and Section 1 of Act No. 191, S. 422, Regular Session 1969 (Acts 1969, p. 504), which increases the salary of the Judge of the Inferior Court for certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 191, S. 422, Regular Session 1969 (Acts 1969, p. 504), is amended to read as follows:

"An Act Relating to counties having a population of not less than 34,875 nor more than 36,000 according to the most recent federal decennial census; increasing the salary of the Judge of the Inferior Court for such counties."

Section 2. Section 1 of said Act No. 191, S. 422, is amended to read as follows:

"Section 1. In all counties having a population of not less than 34,875 nor more than 36,000 according to the most recent federal decennial census, the Judge of the Inferior Court of such counties shall receive an annual salary of \$6,000, payable out of the general funds of the county in equal monthly installments."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 10:48 A.M.

Act No. 618

H. 1178—Barkett

AN ACT

To repeal Act No. 242, H. 921, approved August 10, 1965, Regular Session 1965 (Acts 1965, p. 344), entitled, "An Act To apply in all counties having populations of not less than 31,000 nor more than 32,000; authorizing nighttime hunting of racoons with rifle or shotgun; repealing conflicting laws."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 242, H. 921, approved August 10, 1965, Regular Session 1965 (Acts 1965, p. 344), entitled, "An Act To apply in all counties having populations of not less than 31,000 nor more than 32,000; authorizing nighttime hunting of racoons with rifle or shotgun; repealing conflicting laws," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 10:49 A.M.

Act No. 619

H. 1179—Barkett

AN ACT

To repeal Act No. 125, H. 275, approved, July 10, 1963, Regular Session 1963 (Acts 1963, p. 500), entitled, "An Act Relating to counties

having populations of not less than 31,000 nor more than 32,000 according to the most recent federal decennial census; prescribing further the fees allowed sheriffs in such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 125, H. 275, approved, July 10, 1963, Regular Session 1963 (Acts 1963, p. 500), entitled, "An Act Relating to counties having populations of not less than 31,000 nor more than 32,000 according to the most recent federal decennial census; prescribing further the fees allowed sheriffs in such counties," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 10:50 A.M.

Act No. 620

H. 1180—Barkett

AN ACT

To repeal Act No. 1195, H. 1434, approved September 13, 1969, Regular Session 1969 (Acts 1969, p. 2234), entitled, "An Act Relating to counties having populations of not less than 31,000 nor more than 32,000; to alter, rearrange and extend the corporate limits of certain towns within such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 1195, H. 1434, approved September 13, 1969, Regular Session 1969 (Acts 1969, p. 2234), entitled, "An Act Relating to counties having populations of not less than 31,000 nor more than 32,000; to alter, rearrange and extend the corporate limits of certain towns within such counties," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 10:51 A.M.

Act No. 621

H. 1181—Barkett

AN ACT

To amend the title and Section 1 of Act No. 126, H. 365, Regular Session 1967, (Acts 1967, p. 463), which provides for dividing any voting precinct into territories; designating voting centers in such territories; and providing for the operation of such voting centers in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 126, H. 365, Regular Session 1967, (Acts 1967, p. 463), is amended to read as follows:

"An Act to apply only in counties in the state having a population of not less than 52,500 nor more than 54,000 inhabitants, according to the last or any subsequent federal decennial census, wherein the use of voting machines has been, or shall be, authorized; to provide that the county governing body in regulating and providing for the use of voting machines in all elections in the county may, in the manner herein prescribed, divide any voting precinct of the county into territories, designate in each territory a voting center at which the qualified electors of the territory so designated may vote, and prescribe the number of voting machines to be maintained at each voting center; and to provide election officers for each voting center designated by the county governing body, prescribe the duties of such election officers, and fix their compensation."

Section 2. Section 1 of said Act No. 126, H. 365, is hereby amended to read as follows:

"Section 1. This Act shall apply only in counties of the state having a population of not less than 52,500 nor more than 54,000 inhabitants, according to the last or any subsequent federal decennial census. Unless a contrary intent appears from the context, as used herein, the word "county" means any county to which this Act applies; the phrase "county governing body" means the court of county commissioners, board of revenue, or other like governing body of any such county; the word "election" means any general, special, or primary election held in the county, including a district, municipal, county, state or federal election; and the term "voting Center" means any place in the county which the county governing body designates as a place where a voting machine or voting machines will be maintained or operated at elections.

Section 3. (a) Subject to the provisions of subsection (b), when the use of voting machines at elections in the county has been, or shall hereafter be authorized, the county governing body of the county shall have the authority to designate a voting center or voting centers in the county. The order so designating voting centers shall state (1) the location of the voting center and (2) the boundaries of the territory in which electors shall reside to be entitled to vote at said voting center. A copy of this order shall be posted at the courthouse door of each county to which this Act applies. The limitations prescribed by law as to the number of electors who may reside in a voting district shall not apply to a territory designated hereunder. All of the territory designated for a voting center shall

be located in the same precinct; and the voting center designated therefor shall be located in the territory. The county governing body may by order abolish a voting territory and discontinue the voting center therein or may extend or restrict the boundaries of such voting territory and retain the voting center therein, or may subdivide such voting territory and designate an additional voting center therein.

(b) Except as herein expressly provided, in designating voting centers and the territory for which they were established, the county governing body shall be subject to all other laws applicable to the governing body of a county, regarding the change or establishment of the districts of a precinct, including but not limited to the provisions of Article 6, Chapter 1, Title 17, Code of Alabama 1940, as amended.

Section 4. (a) The voting list of any territory which is furnished the election officers serving at the voting center designated for such territory shall contain the names of all qualified electors of the territory on a single roll; however, when the roll contains more than twenty-four hundred names the list of qualified electors or roll shall be divided into alphabetical sections of not more than twenty-four hundred names per section. Except as herein otherwise provided, the laws applicable to the preparation, distribution, publication and checking of qualified lists shall apply to the poll list of a territory for which a voting center has been established by the county governing body pursuant to authority hereby conferred.

(b) No elector shall vote at any voting center other than the voting center of the territory of which he is a qualified elector, but any elector eligible to vote at a voting center may vote on any voting machine maintained at such voting center, upon presentation of the identification card issued to him by an election officer serving at such voting center.

Section 5. The county governing body shall determine the number of voting machines deemed necessary to serve adequately the voters at an election, taking into consideration the nature or character of the election; provided, however, that at each election there shall be maintained at each voting center at least one voting machine for each six hundred registered electors, or fraction thereof, residing in the territory served by the voting center designated for said territory. At least twenty days prior to the time when the election officers for an election are required to be appointed, the county governing body shall in writing inform the officers whose duty it is to appoint said election officers of the number of voting machines which will be maintained at the respective voting centers during the forthcoming election; and the officers whose duty it is to appoint election officers shall appoint the number of election

officers for the respective voting centers required hereby to conduct elections in which the number of voting machines, shown in the statement of the county governing body, will be maintained.

Section 6. (a) For each voting center where only one voting machine is to be used, the election officials shall consist of an inspector, a chief clerk and two assistant clerks. For each voting center where more than one voting machine is to be used there shall be appointed one chief inspector who shall supervise the conduct of the other officials and the operation of the voting center, one inspector and one chief clerk, and for each voting machine to be used at such center there shall be appointed two assistant clerks. For each voting center where four or more voting machines are to be used there may be appointed two additional assistant clerks for each group of four voting machines or fraction thereof.

(b) The election officers provided for herein shall be appointed by the same officers that appoint other election officers. They shall perform all duties imposed on election officers by the general law and in addition thereto the following duties: One of the election officers shall be assigned to each section of the voting list and such election officer shall issue to each elector at the time he checks the name off the list of qualified electors an identification card, which shall be presented to the assistant clerk in charge of the voting machine and surrendered to him when the voter enters the voting machine. The identification cards shall each have printed on them the words "voter identification card," and they shall contain a space in which shall be entered the signature of the election officer who delivers the card to the elector. The identification cards shall bear neither a number nor the name of a voter. Identification cards shall be procured by the same officer who procures other election supplies and shall be paid for from the same funds that the cost of other election supplies are paid.

(c) The assistant clerk in charge of the voting machine shall require that each voter sign at the machine a poll list before he is allowed to enter the machine to vote. A separate poll list of persons casting challenged votes shall be kept by the officials.

(d) The inspector shall certify on each statement of canvass form the total number of votes cast on all machines at the voting center and the total number of electors' names recorded on the poll lists at such voting center. Election officers provided for by this Act shall be compensated for their services in the same manner and at the same rates provided by law for election officers where voting machines are used.

(e) It shall be the duty of all election officials to see that order is maintained in the polling place. The inspector shall see

that the returns are filled out for each voting machine as required by law and delivered to the proper officials, and that the records of the election relating to each machine are enclosed respectively in each machine, and that the list of qualified voters, challenged ballots, and one copy of each challenged oath and any other records relating to the election in general are enclosed in an appropriate voting machine.

Section 7. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. The provisions of this Act shall be supplemental to other laws regulating the designating of voting places and the division of voting precincts into voting districts and shall be construed in *pari materia* with such laws but such provisions of these laws as conflict with this Act are hereby repealed.

Section 9. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law."

Approved August 31, 1971.

Time: 10:51 A.M.

Act No. 622

H. 1182—Barkett

AN ACT

To amend the title and Section 1 of Act No. 469, H. 562, Regular Session 1967, (Acts 1967, p. 1161), which fixed the compensation of the deputy sheriffs in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 469, H. 562, Regular Session 1967, (Acts 1967, p. 1161), is amended to read as follows:

"An Act to fix the compensation of the deputy sheriffs in counties having populations of not less than 52,500 nor more than 54,000."

Section 2. Section 1 of said Act No. 469, H. 562, is amended to read as follows:

"Section 1. In all counties having populations of not less than 52,500 nor more than 54,000, according to the most recent federal decennial census, the chief deputy sheriff shall be paid an annual salary of not more than \$6,500 and every other deputy sheriff whose salary is payable from the county treasury according to law shall be entitled to an annual salary of not more than

\$6,000. The exact amount of each of such salaries shall be fixed by the county governing body and shall be paid in equal monthly installments from the county treasury."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:52 A.M.

Act No. 623

H. 1183—Barkett

AN ACT

To amend the title and Section 1 of Act No. 358, H. 362, Special Session 1966, (Acts 1966, p. 498), which authorized the board of revenue to appropriate and use certain county funds and to designate and use certain county property, buildings, and facilities in order to qualify for and receive federal assistance under the federal Economic Opportunity Act of 1964; and to provide retroactive effect in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act 358, H. 362, Special Session 1966, (Acts 1966, p. 498), is amended to read as follows:

"An Act to apply only in counties having populations of not less than 52,500 nor more than 54,000, to authorize the board of revenue to appropriate and use certain county funds and to designate and use certain county property, buildings, and facilities in order to qualify for and receive federal assistance under the federal Economic Opportunity Act of 1964; and to provide retroactive effect."

Section 2. Section 1 of said Act No. 358, H. 362, is amended to read as follows:

"Section 1. The board of revenue, or other like governing body in any county having a population of not less than 52,500 nor more than 54,000 according to the most recent federal decennial census, shall have authority to appropriate and use such sums from the general funds of the county not otherwise appropriated, and to designate and use such county property, buildings, and facilities, as may be necessary to enable the county to participate in programs and receive benefits and funds provided for and made available by and from the federal government under Public Law 88-452, known as the Economic Opportunity

Act of 1964, as approved by Congress on August 20, 1964, when such county governing body, in its discretion, considers such action to be in the best interests of the county. Provided, however, that such sums and such property, buildings, and facilities shall not be appropriated, designated, or used in any manner which conflicts with the Constitution or statutes of the State of Alabama.

Section 3. The provisions of this Act shall be retroactive to January 1, 1966; and any appropriation of funds or designation of property made on or since such date by the county governing body as herein authorized is hereby declared valid and effective.

Approved August 31, 1971.

Time: 10:53 A.M.

Act No. 624

H. 1184—Barkett

AN ACT

To amend the title and Section 1 of Act No. 470, H. 563, Regular Session, 1967, (Acts 1967, p. 470), which provided for fixing the fee for issuance of a pistol permit by the sheriff; and providing for the distribution and use of such fees in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 470, H. 563, Regular Session, 1967 (Acts 1967, p. 470), is amended to read as follows:

“An Act relating to counties having populations of not less than 52,500 nor more than 54,000; fixing the fee for issuance of a pistol permit by the sheriff; and providing for the distribution and use of such fees.”

Section 2. Section 1 of said Act No. 470, H. 563, is amended to read as follows:

“Section 1. In all counties having populations of not less than 52,500 nor more than 54,000, according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama 1940, Title 14, Section 177, shall be \$7.50, which shall be collected by the sheriff and deposited in the county treasury. Such fee shall be credited to a special fund or account in the county treasury and shall be used exclusively by the sheriff for the law enforcement purposes, in such amounts and at such times as may be approved by the court of county commissioners, board of revenue, or other like governing body of the county.”

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:54 A.M.

Act No. 625

H. 1185—Barkett

AN ACT

To amend the title and Section 1 of Act No. 77, H. 458, Regular Session, 1965, (Acts 1965, p. 104), which provided for compensation of the members of the boards of education of such counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 77, H. 458, Regular Session, 1965, (Acts 1965, p. 104), is amended to read as follows:

“An Act relating to counties having populations of not less than 52,500 nor more than 54,000; to provide for the compensation of the members of the boards of education of such counties.”

Section 2. Section 1 of said Act No. 77, H. 458, is hereby amended to read as follows:

“Section 1. The members of the county board of education of each county in the state having a population of not less than 52,500 nor more than 54,000 inhabitants according to the most recent federal decennial census shall receive a salary from the public school funds of the county in the amount of \$100 a month and his actual traveling and hotel expenses incurred in attending meetings of the board and transacting the business of the board.”

Section 3. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws and parts of laws, both general and local in conflict herewith are repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:55 A.M.

Act No. 626

H. 1186—Barkett

AN ACT

To amend the title and Section 1 of Act No. 331, H. 808, Regular Session 1965, (Acts 1965, p. 460), which provided for expense allowances for the coroners of such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 331, H. 808, is hereby amended to read as follows:

“To apply only in counties having populations of not less than 52,500 nor more than 54,000 providing allowances payable from the county treasury for the coroners of such counties.”

Section 2. Section 1 of said Act No. 331, H. 808, is hereby amended to read as follows:

“Section 1. In all counties having populations of not less than 52,500 nor more than 54,000, according to the most recent federal decennial census, the coroner shall, at the discretion of the court of county commissioners, be entitled to an allowance for expenses not to exceed the amount of \$600 per annum, which shall be payable from the general funds of the county in equal monthly installments at the end of each month. The expense allowance provided in this Act shall be in addition to any other allowance or compensation provided by law.

Section 3. This Act is cumulative and shall take effect on the first of the month next following the date of its enactment.

Approved August 31, 1971.

Time: 10:56 A.M.

Act No. 627

H. 1187—Barkett

AN ACT

To amend the title and Section 1 of Act No. 468, H. 561, Regular Session 1967, (Acts 1967, p. 1160), which provided for regulating compensation of election officers in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 468, H. 561, Regular Session 1967, (Acts 1967, p. 1160), is amended to read as follows:

"Regulating the compensation of election officers in counties having populations of not less than 52,500 nor more than 54,000 according to the most recent federal decennial census."

Section 2. Section 1 of said Act No. 468, H. 561, is amended to read as follows:

"Section 1. At all elections hereafter held in counties having populations of not less than 52,500 nor more than 54,000, according to the most recent federal decennial census, the officers appointed to hold the election shall each be entitled to eight dollars. The returning officer shall also be entitled to mileage as prescribed in Code of Alabama Recompiled 1958, Title 17, Section 198. The several claims shall be paid as preferred claims, out of monies in the county treasury not otherwise appropriated, on proper proof of service rendered. However, amounts paid to election officers under this Act for per diem or mileage in excess of the amounts prescribed by general laws shall not in any case be reimbursable by the State.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:57 A.M.

Act No. 628

H. 1188—Barkett

AN ACT

To amend the title and Section 1 and 2 of Act No. 1194, H. 1433, Regular Session 1969, (Acts 1969, p. 2234), which provided for the operation of non-profit ambulance services by such counties and municipalities in all such counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1194, H. 1433, Regular Session 1969 (Acts 1969, p. 2234), is amended to read as follows:

To provide for operation of non-profit ambulance services by all counties and municipalities within such counties having populations of not less than 52,500 nor more than 54,000 according to the most recent federal decennial census.

Section 2. Section 1 of said Act No. 1194, H. 1433, Regular Session 1969, is amended to read as follows:

The governing bodies of all counties having populations of not less than 52,500 and not more than 54,000, according to the most recent federal decennial census; and all municipalities within such counties are each hereby authorized to create and establish, maintain and operate an ambulance service to promote the health, welfare and safety of residents of the county and city and of citizens and others traveling within the county. Toward this end such cities may appropriate public funds, employ such personnel, and purchase and maintain such equipment and other facilities as may be needed for such purpose.

Section 3. The governing body of such counties, and municipalities in such counties, may by ordinance provide for operation of the ambulance service herein authorized, and may authorize the service to charge and collect fees for services rendered, provided that such charges shall be based solely on the cost of operating the service, which shall not be operated for profit.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:58 A.M.

Act No. 629

H. 1189—Barkett

AN ACT

To amend the title and Section 1 of Act No. 714, H. 1010, Regular Session 1967, (Acts 1967, p. 1551), which provided for per diem pay for members of the county board of equalization in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 714, H. 1010, Regular Session 1967, (Acts 1967, p. 1551), is amended to read as follows:

“To apply only in counties having populations of not less than 52,500 nor more than 54,000 according to the most recent federal decennial census, fixing the per diem pay for members of the county board of equalization.”

Section 2. Section 1 of said Act No. 714, H. 1010, is amended to read as follows:

“Section 1. In all counties of the State of Alabama having populations of not less than 52,500 nor more than 54,000 accord-

ing to the most recent federal decennial census, the members of the board of equalization shall each receive \$20 per day for each day's attendance upon the sessions of the board. The increase in pay provided for by this Act shall be paid from the general funds in the county treasury."

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 10:59 A.M.

Act No. 630

H. 1190—Williams

AN ACT

To amend the title and Section 1 of Act No. 776, H. 1487, Regular Session 1961 (Acts 1961, p. 1114), which Act provides for the payment of an allowance for the chairman of the county commission in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 776, H. 1487, Regular Session 1961 (Acts 1961, p. 1114), is hereby amended to read as follows:

"An Act To provide for the payment of an allowance for the chairman of the county commission of any county having a population of not less than 38,100 nor more than 40,500 inhabitants according to the 1970 or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 776, H. 1487, is hereby amended to read as follows:

"Section 1. The chairman of the county commission of any county having a population of not less than 38,100 nor more than 40,500 inhabitants according to the 1970 or any subsequent federal decennial census shall be entitled to receive from the county treasury the sum of \$50.00 per month expense allowance. Such allowance shall be paid at the end of each month from any funds in the county treasury not otherwise appropriated on warrants drawn in the same manner as warrants drawn in the manner prescribed by law for the payment of his compensation."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:00 A.M.

Act No. 631

H. 1191—Williams

AN ACT

To amend the title and Section 1 of Act No. 660, S. 766, Regular Session 1969 (Acts 1969, p. 1194), which Act provides for the licensing of, and to regulate the operation of, hunting on privately owned hunting preserves, stocked by artificially propagated uplands in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 660, S. 766, Regular Session 1969 (Acts 1969, p. 1194), is hereby amended to read as follows:

“An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially publicated upland birds in all counties having populations of not less than 38,100 nor more than 40,500 according to the 1970 or any subsequent federal decennial census; to prescribe the fees for such license, provide for their collection and distribution; and to prescribe penalties for violation of this Act.”

Section 2. Section 1 of Act No. 660, S. 766, Regular Session 1969 (Acts 1969, p. 1194), is hereby amended to read as follows:

“Section 1. This Act shall apply only in counties having populations of not less than 38,100 nor more than 40,500 according to the 1970 or any subsequent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:01 A.M.

Act No. 632

H. 1192—Williams

AN ACT

To amend the title and Section 1 of Act No. 510, H. 1125, Regular Session 1965 (Acts 1965, p. 750), which Act authorizes the establishment of branch banks in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 510, H. 1125, Regular Session 1965 (Acts 1965, p. 750), is hereby amended to read as follows:

“An Act To authorize the establishment of branch banks in counties having populations of not less than 38,100 nor more than 40,500.”

Section 2. Section 1 of said Act No. 510, H. 1125, is hereby amended to read as follows:

“Section 1. This Act shall apply to the State of Alabama in those counties of said state which, according to the last federal census, had a population of not less than 38,100 nor more than 40,500 and only to such counties.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:02 A.M.

Act No. 633

H. 1193—Williams

AN ACT

To amend the title and Section 1 of Act No. 172, S. 92, Special Session 1962 (Acts 1962, p. 218), which Act withdraws jurisdiction of criminal cases from justices of the peace and notaries ex officio justice of the peace elected or appointed in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 172, S. 92, Special Session 1962 (Acts 1962, p. 218), is hereby amended to read as follows:

“An Act To withdraw jurisdiction of criminal cases from justices of the peace and notaries ex officio justice of the peace elected or appointed for any county in this state which has a population of not less than 38,100 nor more than 40,500 inhabitants according to the 1970 or any subsequent federal decennial census.”

Section 2. Section 1 of said Act No. 172, S. 92, is hereby amended to read as follows:

“Section 1. After this Act takes effect, justices of the peace and notaries ex officio justice of the peace elected or appointed for or in any precinct of any county in this state which has a population of not less than 38,100 nor more than 40,500 inhabitants according to the 1970 or any subsequent federal decennial census shall be divested and deprived of jurisdiction in all criminal or quasi-criminal cases, and shall have no power or authority to exercise any jurisdiction whatsoever in a criminal or quasi-criminal case, or take complaints of offenses committed within the county, or to issue warrants of arrest.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:03 A.M.

Act No. 634

H. 1194—Williams

AN ACT

To amend the title and Section 1 of Act No. 379, H. 937, Regular Session 1969 (Acts 1969, p. 750), which Act authorizes the deputy district attorney to employ a full time secretary and to fix the salary therefore.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 379, H. 937, Regular Session 1969 (Acts 1969, p. 750), is hereby amended to read as follows:

“An Act To apply to counties having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census and authorizing the deputy district attorney for said counties to employ a full time secretary and to fix the salary therefore.”

Section 2. Section 1 of said Act No. 379, H. 937, is hereby amended to read as follows:

“Section 1. Any deputy district attorney in any county having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census, who maintains an office in the courthouse of any such county is authorized a full time secretary who shall be appointed by him and serve at his pleasure.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:04 A.M.

Act No. 635

H. 1195—Williams

AN ACT

To amend the title and Section 1 of Act No. 783, H. 1362, Regular Session 1961 (Acts 1961, p. 1135), which Act prohibits the taking of fish from public waters by the use of hoop and fyke nets, gill nets, trammel nets, or any other kind of commercial fishing gear except setlines, trotlines, and snaglines in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 783, H. 1362, Regular Session 1961 (Acts 1961, p. 1135), is hereby amended to read as follows:

"An Act To prohibit the taking of fish from the public waters of counties having populations of not less than 38,100 nor more than 40,500, with hoop and fyke nets, gill nets, trammel nets, or any other kind of commercial fishing gear except set-lines, trotlines, and snaglines."

Section 2. Section 1 of said Act No. 783, H. 1362, is hereby amended to read as follows:

"Section 1. It shall be unlawful for any person to use any hoop and fyke net, gill net, trammel net, or any other kind of commercial fishing gear, except a setline, trotline, or snagline, in taking or capturing fish from the public impounded waters and navigable streams in any county having a population of not less than 38,100 nor more than 40,500 according to the most recent federal decennial census, notwithstanding the fact that such person may be licensed by the Department of Conservation to use such gear in any other county. Whoever violates this Act is guilty of a misdemeanor and upon conviction shall be punished as prescribed by law."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:05 A.M.

Act No. 636

H. 1196—Williams

AN ACT

To amend the title and Section 1 of Act No. 182, H. 78, Special Session 1961 (Acts 1961, p. 2154), which Act further regulates the compensation and allowances of members of the Board of Registrars of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 182, H. 78, Special Session 1961 (Acts 1961, p. 2154), is hereby amended to read as follows:

"An Act To regulate further the compensation and allowances of members of the Board of Registrars of counties having populations of not less than 38,100 nor more than 40,500, according to the 1970 or any subsequent federal decennial census."

Section 2. Section 1 of Act No. 182, H. 78, is hereby amended to read as follows:

“Section 1. Each of the members of the Board of Registrars of counties having populations of not less than 38,100 nor more than 40,500, according to the 1970 or any subsequent federal decennial census, shall be entitled to an expense allowance of \$100.00 per year, in addition to all other compensation and expenses prescribed by law. The additional compensation herein provided shall be paid out of the general funds of such counties in equal monthly installments.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:06 A.M.

Act No. 637

H. 1197—Williams

AN ACT

To amend the title and Section 1 of Act No. 248, H. 595, Regular Session 1969 (Acts 1969, p. 580), which Act provides for the selection of text books and instructional materials for use in the public schools in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 248, H. 595, Regular Session 1969 (Acts 1969, p. 580), is hereby amended to read as follows:

“An Act To provide further for the selection of textbooks and instructional materials for use in the public schools in all counties having populations of not less than 38,100 nor more than 40,500, according to the most recent federal decennial census.”

Section 2. Section 1 of said Act No. 248, H. 595, is hereby amended to read as follows:

“Section 1. In all counties having populations of not less than 38,100 nor more than 40,500, according to the most recent federal decennial census, the county board of education, upon the recommendation of the county superintendent of education, may select and adopt for use in the tax supported elementary and high schools in the county textbooks and instructional materials other than the textbooks and materials on the state adopted list. Whenever textbooks and instructional materials are substituted for the state-approved or state-adopted books

and materials, such books or materials shall be used by the teachers in the public schools in teaching any course or courses for which a substitution has been made. Provided, however, the county board of education shall not substitute books or texts or materials for the state-approved or state-adopted textbooks and materials, if such substitution would cause the county board of education to be unable to furnish free textbooks to all students in the system through the twelfth grade."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:07 A.M.

Act No. 638

H. 1198—Williams

AN ACT

To amend the title and Section 1 of Act No. 455, H. 470, Regular Session 1967 (Acts 1967, p. 1147), which Act provides for the compensation of the members of the board of equalization in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 455, H. 470, Regular Session 1967 (Acts 1967, p. 1147), is hereby amended to read as follows:

"An Act Relating to counties having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census and providing for the compensation of the members of the board of equalization in such counties."

Section 2. Section 1 of said Act No. 455, H. 470, is hereby amended to read as follows:

"Section 1. In all counties in the State of Alabama having a population of not less than 38,100 nor more than 40,500 according to the last federal decennial census, the members of the board of equalization in such counties shall be paid the additional sum of \$5.00 for each day in attendance of their duties as such members, not to exceed the maximum number of days new prescribed by law. This shall be in addition to any compensation for mileage or expenses now provided, and shall be paid out of the general funds of such county in the same manner as other funds are now paid from said general fund."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:08 A.M.

Act No. 639

H. 1199—Williams

AN ACT

To amend the title and Section 1 of Act No. 270, H. 74, Special Session 1966 (Acts 1966, p. 410), which Act authorized the sheriff to employ additional deputies fixing their powers and duties and providing for their compensation in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 270, H. 74, Special Session 1966 (Acts 1966, p. 410), is hereby amended to read as follows:

“An Act Relating to counties with populations of not less than 38,100 and not more than 40,500 according to the last federal decennial census and to authorize the sheriff of such counties to employ additional deputies; fixing their powers and duties and providing for their compensation.”

Section 2. Section 1 of said Act No. 270, H. 74, is hereby amended to read as follows:

“Section 1. That the sheriff of any county in the State of Alabama having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census shall be authorized to employ an additional deputy to be known as the county investigator to be used for the enforcement of traffic laws upon the roads and highways of said county and for such other law enforcement duties as the sheriff may prescribe. Said investigator is to have the same powers granted to other regular deputies in such counties and shall serve at the discretion of the sheriff.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:09 A.M.

Act No. 640

H. 1200—Williams

AN ACT

To amend the title and Section 1 of Act No. 183, H. 79, Special Session 1961 (Acts 1961, p. 2155), which Act further regulates the compensation and allowances of members of the board of equalization of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 183, H. 79, Special Session 1961 (Acts 1961, p. 2155), is hereby amended to read as follows:

"An Act To regulate further the compensation and allowances of members of the board of equalization of counties having populations of not less than 38,100 nor more than 40,500, according to the 1970 or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 183, H. 79, is hereby amended to read as follows:

"Section 1. Each of the members of the board of equalization of counties having populations of not less than 38,100 nor more than 40,500, according to the 1970 or any subsequent federal decennial census, shall be entitled to an expense allowance of \$100.00 per year in addition to all other compensation and allowances prescribed by law, to be paid in the manner prescribed by general law for the payment of other compensation and expenses of members of boards of equalization."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:10 A.M.

Act No. 641

H. 1201—Williams

AN ACT

To repeal Act No. 171, S. 91, approved, July 16, 1962, Special Session 1962 (Acts of Alabama 1962, p. 217) entitled, "An Act To prohibit sheriffs and their deputies in all counties in this state having populations of not less than 36,600 nor more than 37,600 according to the 1960 or any subsequent federal decennial census, for making arrests for violations of laws, ordinances, and duly promulgated rules and regulations prescribing speed limits for motor vehicles on evidence obtained by use of radar or other technical devices for measuring speed of passing vehicles unless drivers are given notice in the manner, prescribed in this Act, that such devices are in use."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 171, S. 91, approved July 16, 1962, Special Session 1962 (Acts of Alabama 1962, p. 217) entitled, "An Act To prohibit sheriffs and their deputies in all counties in this state having populations of not less than 36,600 nor more than 37,600 according to the 1960 or any subsequent federal decennial census, for making arrests for violations of laws, ordinances, and duly promulgated rules and regulations prescribing speed limits for motor vehicles on evidence obtained by use of radar or other technical devices for measuring speed of passing vehicles unless drivers are given notice in the manner, prescribed in this Act, that such devices are in use," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 11:11 A.M.

Act No. 642

H. 1202—Williams

AN ACT

To repeal Act No. 181, H. 77, approved, September 15, 1961, Special Session 1961 (Acts of Alabama 1961, p. 2154) entitled, "An Act To provide an additional expense allowance for the members of the County Board of Education of any county having a population of not less than 36,600 nor more than 37,600 inhabitants according to the 1960 or any subsequent federal census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 181, H. 77, approved, September 15, 1961, Special Session 1961 (Acts of Alabama 1961, p. 2154) entitled, "An Act To provide an additional expense allowance for the members of the County Board of Education of any county having a population of not less than 36,600 inhabitants according to the 1960 or any subsequent federal census," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 11:12 A.M.

Act No. 643

H. 1203—Williams

AN ACT

To repeal Act No. 915, H. 1301, approved, September 12, 1969, Regular Session 1969 (Acts of Alabama 1969, p. 1646) entitled, "An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 36,600 nor more than 37,600 according to the 1960 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 915, H. 1301, approved, September 12, 1969, Regular Session 1969 (Acts of Alabama 1969, p. 1646) entitled, "An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned

preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 36,600 nor more than 37,600 according to the 1960 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 11:13 AM..

Act No. 644

H. 1204—Williams

AN ACT

To amend the title and Section 1 of Act No. 438, H. 788, Regular Session 1969 (Acts 1969, p. 873), which Act authorizes the county governing body to fix the amount and prescribe the manner of compensating the members of the jury commission in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 438, H. 788, Regular Session 1969 (Acts 1969, p. 873), is hereby amended to read as follows:

"An Act Relating to all counties having populations of not less than 38,100 nor more than 40,500 according to the most recent federal decennial census; authorizing, but not requiring, the governing body of each such counties to fix the amount and prescribe the manner of compensating the members of the jury commissions of the county."

Section 2. Section 1 of said Act No. 438, H. 788, is hereby amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 38,100 nor more than 40,500 according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:14 A.M.

Act No. 645

H. 1205—Williams

AN ACT

To amend the title and Section 1 of Act No. 195, H. 208, Special Session 1967 (Acts 1967, p. 242), which Act provides for payment of

additional expense allowances to the chairman and members of the governing body of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 195, H. 208, Special Session 1967 (Acts 1967, p. 242), is hereby amended to read as follows:

“An Act Relating to counties having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census and providing for payment of additional expense allowances to the chairman and members of the governing body of said county.”

Section 2. Section 1 of said Act No. 195, H. 208, is hereby amended to read as follows:

“Section 1. This Act shall apply only in counties having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census whose affairs are governed by a county commission.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:15 A.M.

Act No. 646

H. 1206—Williams

AN ACT

To amend the title and Section 1 of Act No. 654, H. 879, Regular Session 1967 (Acts 1967, p. 1475), which Act provides for expense allowances for coroners in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 654, H. 879, Regular Session 1967 (Acts 1967, p. 1475), is hereby amended to read as follows:

“An Act to apply only in counties having populations of not less than 38,100 nor more than 40,500; providing expense allowances for coroners of all such counties.”

Section 2. Section 1 of said Act No. 654, H. 879, is hereby amended to read as follows:

“Section 1. In all counties having populations of not less than 38,100 nor more than 40,500 according to the most recent federal decennial census, the coroner shall be entitled to an allowance for expenses incurred in the performance of his duties in the amount of \$50.00 a month, which allowance shall be paid

from the general funds of the county at the end of each month. The allowance provided for herein shall be in addition to all compensation, fees, and allowances heretofore provided the coroner by law."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:16 A.M.

Act No. 647

H. 1207—Williams

AN ACT

To amend the title and Section 1 of Act No. 380, H. 938, Regular Session 1969 (Acts 1969, p. 751), which Act provides an additional expense allowance for the members of the county board of education in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 380, H. 938, Regular Session 1969 (Acts 1969, p. 751), is hereby amended to read as follows:

"An Act To provide an additional expense allowance for the members of the county board of education of any county having a population of not less than 38,100 nor more than 40,500 inhabitants according to 1970 or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 380, H. 938, is hereby amended to read as follows:

"Section 1. The members of the board of education of any county having a population of not less than 38,100 nor more than 40,500 inhabitants according to the 1970 or any subsequent federal decennial census may receive in addition to all other compensation now provided by law, an expense allowance in such amount as is fixed by the county board of education."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:17 A.M.

Act No. 648

H. 1208—Williams

AN ACT

To amend the title and Section 1 of Act No. 137, H. 457, Regular Session 1969 (Acts 1969, p. 410), which Act provides for an expense

allowance for the judge of the county court in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 137, H. 457, Regular Session 1969 (Acts 1969, p. 410), is hereby amended to read as follows:

“An Act Relating to counties having populations of not less than 38,100 nor more than 40,500 according to the most recent federal decennial census; to provide for expense allowances for the judge of the county court in all such counties.”

Section 2. Section 1 of said Act No. 137, H. 457, is hereby amended to read as follows:

“Section 1. This Act shall apply in all counties in this state having populations of not less than 38,100 nor more than 40,500, according to the most recent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:18 A.M.

Act No. 649

H. 1209—Williams

AN ACT

To amend the title and Section 1 of Act No. 144, H. 165, Special Session 1967 (Acts 1967, p. 194), which Act authorizes the county commission to appropriate funds from the general fund for the purpose of employing clerical help in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 144, H. 165, Special Session 1967 (Acts 1967, p. 194), is hereby amended to read as follows:

“An Act To authorize the governing bodies of counties having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census to appropriate funds from the general fund of said counties for the purpose of employing clerical help.”

Section 2. Section 1 of said Act No. 144, H. 165, is hereby amended to read as follows:

“Section 1. That the county commission in all counties in the State of Alabama having a population of not less than 38,100 nor more than 40,500 according to the 1970 federal decennial census, may appropriate such funds as they may deem

advisable from the general fund of said counties to the county commission for the purpose of employing clerical help. The chairman shall have the authority to employ such clerical assistance as the board shall prescribe."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:19 A.M.

Act No. 650

H. 1210—Williams

AN ACT

To amend the title and Section 1 of Act No. 439, H. 789, Regular Session 1969 (Acts 1969, p. 875), which Act authorizes the county commission to appropriate county funds to establish a contingent fund; and providing for the use of such funds in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 439, H. 789, Regular Session 1969 (Acts 1969, p. 875), is hereby amended to read as follows:

"An Act Relating to counties having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census, authorizing the county commission to appropriate county funds to establish a contingent fund and providing for the use of such funds."

Section 2. Section 1 of said Act No. 439, H. 789, is hereby amended to read as follows:

"Section 1. That in all counties having a population of not less than 38,100 and not more than 40,500 according to the last federal decennial census the county commission may in its discretion, appropriate annually from the public funds of the county an amount not exceeding \$4,000 as a contingent fund from which shall be paid any entertainment or promotional expense incurred for and incidental to the promotion of economic, industrial, or cultural development of the county, and from which shall be paid any other equitable and just claim or claims against the county for which the county is not legally liable but morally and justly obligated, and for recovery of which the claimant or claimants have no recourse at law. Any appropriations so made shall be paid by the county treasury or depository on warrants drawn in such manner as the county governing body may direct. Any unexpended or unencumbered

balance in any such contingent fund shall revert to the county general fund at the end of each fiscal year."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:20 A.M.

Act No. 651

H. 1211—Williams

AN ACT

To amend the title and Section 1 of Act No. 380, H. 938, Regular Session (Acts 1969, p. 751), which Act provides an additional expense allowance for the members of the county board of education in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 380, H. 938, Regular Session 1969 (Acts 1969, p. 751), is hereby amended to read as follows:

"An Act To provide an additional expense allowance for the members of the county board of education of any county having a population of not less than 38,100 nor more than 40,500 according to the 1970 or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 380, H. 938, is hereby amended to read as follows:

"Section 1. The members of the board of education of any county having a population of not less than 38,100 nor more than 40,500 inhabitants according to the 1970 or any subsequent federal decennial census may receive in addition to all other compensation now provided by law, an expense allowance in such amount as is fixed by the county board of education.

The county board of education in any such county is hereby authorized, in its discretion, to fix and provide for the payment thereof to the members of the county board of education an expense allowance of not more than \$100.00 per month which shall be paid out of any funds available for the payment of other salaries for school employees of any such county; and shall be in addition to any and all other compensation and allowances now provided by law for such members."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:21 A.M.

Act No. 652

H. 1212—Williams

AN ACT

To amend the title and Section 1 of Act No. 1203, H. 1449, Regular Session 1969 (Acts 1969, p. 2245), which Act provides for the taxing of additional court cost on misdemeanors in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1203, H. 1449, Regular Session 1969 (Acts 1969, p. 2245), is hereby amended to read as follows:

“An Act Relating to counties having a population of not less than 38,100 nor more than 40,500 according to last federal decennial census and providing for the taxing of additional court cost in misdemeanors.”

Section 2. Section 1 of said Act No. 1203, H. 1449, is hereby amended to read as follows:

“Section 1. That in all counties having a population of not less than 38,100, nor more than 40,500, according to the last federal decennial census, there shall be added as cost in all misdemeanor cases, the sum of \$1.00, in addition to all present cost, which item of cost shall be denominated “Secretarial Fee”, and which shall be collected and remitted into the General Fund of such counties monthly.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:22 A.M.

Act No. 653

H. 1213—Williams

AN ACT

To amend the title and Section 1 of Act No. 82, H. 81, Special Session 1967 (Acts 1967, p. 114), which Act authorizes the county commission to appropriate funds from the Highway Traffic Funds or other funds in the county treasury for law enforcement purposes, including the payment of deputy salaries, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 82, H. 81, Special Session 1967 (Acts 1967, p. 114), is hereby amended to read as follows:

“An Act To authorize the county commission of counties having a population of not less than 38,100 nor more than 40,500

according to the 1970 federal decennial census to appropriate funds from the Highway Traffic Funds of said counties or other funds in the county treasury for law enforcement purposes in said counties, including the payment of deputy salaries."

Section 2. Section 1 of said Act No. 82, H. 81, is hereby amended to read as follows:

"Section 1. That the county commission in all counties in the State of Alabama having a population of not less than 38,100 nor more than 40,500 according to the 1970 federal decennial census, may appropriate such funds as they may deem advisable from the Highway Traffic Fund of said counties or from other funds of the county treasury, to the sheriff's office for the purpose of promoting law enforcement in such counties, and are specifically authorized to appropriate such funds for the payment of the salaries of any deputies that might be employed by the sheriff of said county with the approval of the governing body, and to appropriate from such funds, or from any other funds of said county, money for the payment of the deputy district attorney, up to, but not to exceed \$500.00 per month, for the payment of such district attorney."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:23 A.M.

Act No. 654

H. 1221—Turnham

AN ACT

Relating to Lee County: To abolish the offices of county solicitor and deputy circuit solicitor or deputy district attorney, however designated, for such county, and to require the district attorney of the Thirty-seventh Judicial Circuit to represent the State of Alabama and Lee County in all proceedings in which the county solicitor or deputy circuit solicitor or deputy district attorney, however designated, were formerly required by law to represent the State or the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The office of county solicitor of Lee County is hereby abolished, and the duties of such office are hereby imposed on the district attorney of the Thirty-seventh Judicial Circuit.

Section 2. The office of deputy circuit solicitor or deputy district attorney, however designated, of Lee County is hereby abolished, and notwithstanding the provisions of Title 13, Sec-

tion 256, Code of Alabama, 1940, the district attorney of the Thirty-seventh Judicial Circuit, which includes Lee County, shall not appoint nor be authorized to appoint a deputy circuit solicitor or deputy district attorney, however designated, for Lee County.

Section 3. In addition to all other duties required by law of the district attorney of the Thirty-seventh Circuit, which includes Lee County, it shall be the duty of such district attorney to represent the State of Alabama and Lee County in all cases, actions and proceedings in which the State of Alabama and Lee County would have been represented by the county solicitor or the deputy solicitor of Lee County had the offices of county solicitor and deputy solicitor not been abolished.

Section 4. The provisions of this Act are severable. Should any section, paragraph or portion of this Act be declared unconstitutional, it shall not invalidate the remaining sections, paragraphs or portions hereof.

Section 5. Act No. 220, H. 679, approved July 12, 1949 (Acts of Alabama, 1949, page 312), and Act No. 232, H. 599, approved September 30, 1959 (Acts 1959, Vol. 1, p. 778) which amends said Act No. 220 of 1949, and any and all other laws in conflict herewith are hereby repealed.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:24 A.M.

Act No. 655

H. 1222—Reynolds, Goodwin

AN ACT

Providing a method for issuing motor vehicle tags by mail in Colbert County by the Judge of Probate.

Be It Enacted by the Legislature of Alabama:

Section 1. The probate judge in Colbert County may with the approval of the County Governing Body, issue such license tags by mail, using the United States Post Office, or its successor, upon the written application of a resident-owner of such motor vehicles signed by such owner requesting the Judge of Probate to issue the same by mail.

Section 2. Said Judge of Probate issuing motor vehicle license tags under the provisions of this act shall collect, prior

to issuing the same, all taxes, fees and other charges as may be required by law to be collected by the Judge of Probate, Tax Collector, or such other charges on motor vehicles and motor vehicle license tags, and he shall remit the same to such official charged by law with the duty of collecting such taxes, fees and other charges for distribution in accordance with law; and in addition thereto the Judge of Probate shall collect a handling and mailing fee in such amount as the County Governing Body may deem necessary to cover the County's expenses involved in providing this mail order service. The Judge of Probate shall pay this handling and mailing fee over to the County to the credit of the General Fund.

Section 3. All costs of such mailing service conducted under the provisions of this act shall be paid by the County Governing Body, including forms, supplies, postage and such clerical help as might be required.

Section 4. The Judge of Probate issuing license tags under the provisions of this act shall be authorized to sign the assessment sheet or such other tax form as might be necessary on behalf of the taxpayer and such taxpayer shall be bound thereby as if he had signed the same in person.

Section 5. Any motor vehicle owner making written request for mail services under the provisions of this act shall be deemed to have appointed the United States Post Office Department, or its successor, as his agent for purposes of delivery of such license tag, and the license tag shall be presumed to have been issued to the applicant on delivery, postage prepaid, to a United States Post Office, or its successor, by the Judge of Probate issuing the same.

Section 6. The Judge of Probate electing to issue motor vehicle license tags under the provisions of this act may prescribe such rules and regulations for application of such license tags as he may deem reasonably necessary and may also issue notices to prior year owners by mail with prepared application forms stating the amount of taxes, fees and other charges due.

Section 7. The provisions of this act are permissive and shall not be construed to require the Judge of Probate to issue motor vehicle license tags by mail, nor shall it be construed to require the County Governing Body to approve the issuance of motor vehicle license tags by mail.

Section 8. The provisions of this act are cumulative and shall not repeal any special or local law in conflict herewith.

Section 9. Any delay in issuing motor vehicle license tags by mail under the provisions of this act shall be deemed to be the delay of the applicant.

Section 10. This act shall take effect immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 11:25 A.M.

Act No. 656

H. 1231—Merrill, Stewart, Burgess

AN ACT

Relating to counties having populations of not less than 95,000 nor more than 115,000; providing further for the issuance of certificates of birth and death occurring in such counties; and prescribing penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply only in counties having populations of not less than 95,000 nor more than 115,000 according to the most recent federal decennial census.

Section 2. The county health officer of any county in which this Act applies or the local registrar of vital statistics in any district in any such county upon request of any person having a proper interest therein, accompanied by the fee prescribed below, shall issue a copy or extract from any original certificate of birth or death while said certificate is in his custody. The fee for such certificate shall be \$1.00 for each copy or extract issued. The county health officer or the local registrar, as the case may be, shall cause a complete and correct account to be kept of all fees received by him. The local registrar of vital statistics may retain one-half of all the fees collected by him for his own use, but he shall remit the remainder thereof to the treasurer of the county board of health, or like official, for custody subject to disbursement in the interest of health services in the county. The county health officer shall remit the total of all fees collected by him to the treasurer of the county board of health, or like official, for custody subject to disbursement in the interest of health services in the county.

Section 3. Any county health officer or local registrar of vital statistics who fails upon request from any person having a proper interest therein and payment of the fee prescribed therefor to furnish such a certificate as required in Section 3 above shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as prescribed by law.

Section 5. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 7. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:26 A.M.

Act No. 657

H. 1232—Stubbs

AN ACT

Relating to Shelby County; declaring motor vehicles, guns, rifles, ammunition and hunting equipment used in illegal nighttime deer hunting in the county to be contraband; and providing for the condemnation and sale thereof for the benefit of the state conservation fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Any motor vehicle, or any gun, rifle, ammunition or other hunting equipment which has been or is used for illegal nighttime deer hunting in Shelby County shall be contraband, and, in the discretion of the circuit court of such county, may be forfeited to the State of Alabama, as herein-after provided.

Section 2. The sheriff or any other person authorized to enforce the game and fish laws of this state who apprehends any person hunting deer in Shelby County in the nighttime, or who finds any vehicle which is being or has been used in such illegal nighttime hunting shall seize such vehicle and any gun, rifle, ammunition or other deer hunting equipment found in the possession of or on the person of such person or in or on such vehicle and shall report such seizure and the facts connected therewith to the solicitor or other prosecuting official in the county. The report shall contain a full description of the vehicle or other equipment seized and detained, the name of the person in whose possession it was found, the name of the person making claim to the same, or any interest therein, if the name is known or can be ascertained, the date of seizure, and a statement of the circumstances surrounding the seizing of the property.

Section 3. The solicitor or other prosecuting officer of the county upon receiving such report shall at once institute, or cause to be instituted, condemnation proceedings in the circuit court of Shelby County in equity, in the same manner that he is directed by law to institute proceedings for the condemnation and forfeiture of automobiles and other vehicles used in the

illegal transportation of alcoholic beverages. Except as herein otherwise provided, the procedures for the condemnation, forfeiture and sale of motor vehicles and hunting equipment under this Act shall be governed in all things by and shall conform to the law relative to proceedings for the condemnation, forfeiture, and sale of vehicles used in the illegal transportation of alcoholic beverages. Without limiting the generality of the foregoing sentence the provisions of Code of Alabama 1940, Title 29, Sections 248 and 249, shall apply to and govern all such proceedings.

Section 4. In order to condemn and confiscate any of the property set out in Section 1 it shall not be necessary for the solicitor or other prosecuting authority to prove possession of deer killed in the county while hunting in the nighttime or that the hunter be apprehended in the actual act of killing deer; but it shall be sufficient to prove possession upon the person or in the motor vehicle of a gun, rifle, ammunition and other equipment at such time and place and under such circumstances as would support a conviction for illegally hunting deer in the nighttime.

Section 5. The proceeds of the sale of any property condemned and forfeited to the state under authority of this Act, after payment of all expenses in the cause, including the cost of seizure and a keeping of the property pending the proceedings, shall be paid into the state treasury to the credit of the state conservation fund.

Section 6. All laws or parts of laws which conflict with this Act are repealed.

Section 7. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:27 A.M.

Act No. 658

H. 1237—Coshatt

AN ACT

To authorize the county governing body of St. Clair County to appropriate a contingent fund out of county funds and to use such fund for purposes not otherwise provided by law.

Be It Enacted by the Legislature of Alabama:

Section 1. The board of revenue, court of county commissioners, or like governing body in St. Clair County is hereby authorized and empowered to appropriate out of any moneys in the treasury not otherwise appropriated, and to expend not exceeding the sum of three thousand dollars (\$3,000.00) per annum for any purpose not otherwise provided for by law, that in their judgment are worthy and for the best interest of the county, the fund hereby authorized to be known as the "contingent fund." Provided, however, the expenditures herein provided shall first be authorized by the governing body of the county in a resolution spread upon its minutes.

Section 2. Under the provisions of Section 1, not more than three thousand dollars (\$3,000.00) shall be appropriated and expended in any one year; and should any sum or sums remain unexpended in said fund at the end of the year, only so much shall be appropriated for the next succeeding year as will together with the sum so remaining unexpended bring the contingent fund up to the sum of three thousand dollars (\$3,000.00).

Section 3. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 11:28 A.M.

Act No. 659

H. 1251—Stewart, Burgess, Merrill

AN ACT

Providing that in all counties having a population of not less than 95,000 nor more than 115,000 the Commissioner of Licenses shall collect a fee for taking an affidavit or affidavits when issuing a commercial motor vehicle tag and when making a transfer of any motor vehicle tag.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties of a population of not less than 95,000 and not more than 115,000 according to the last or any subsequent federal census, the Commissioner of Licenses shall collect a fee of 25¢ for taking an affidavit or affidavits when issuing a Commercial motor vehicle tag and when making a transfer of any motor vehicle tag. He shall not collect or charge for any other acknowledgment or affidavit. The Commissioner of Licenses shall not be held liable for failing to charge or collect any such fee or compensation, except as noted above.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:29 A.M.

Act No. 660 S.J.R. 75—Pierce, Branyon, Carr, Clark, Cook,
 Cooper, Dominick, Dozier,
 Edington, Fine, Foshee, Gilmore,
 Givhan, Hammond, Harris,
 Hawkins, Horne, Jones, King,
 Lindsey, Littleton, Lybrand,
 McLain, Malone, Noonan,
 O'Bannon, Owen, Pelham, Bailes,
 Register, Shelby, Vacca, Weaver,
 Wilder, Wilson

SENATE JOINT RESOLUTION

CONGRATULATING McDOWELL LEE, SECRETARY OF
 THE SENATE, ON THE BIRTH OF A SON.

WHEREAS, The members of this body have long been aware
 of the unique skills and talents of its illustrious Secretary; and

WHEREAS, Under the wise and brilliant administration
 of its young mayor, Clio, Alabama became the garden spot of
 the world; and

WHEREAS, Our leader's career as representative in these
 hallowed halls was dynamic, productive, and well-deserving of
 the honors bestowed upon him; and

WHEREAS, His eight years as Secretary of the Senate have
 gained for him the admiration and affection of his colleagues;
 now, therefore,

BE IT RESOLVED BY THE SENATE OF ALABAMA,
 THE HOUSE OF REPRESENTATIVES CONCURRING, That
 the past accomplishments of Honorable McDowell Lee pale in
 comparison with his latest achievement, the siring and birth of a
 son, Archibald McDowell Lee, born to his lovely wife, Valerie,
 at 11:45 P.M., August 12, 1971, weighing in at 8 lbs., 4 oz.

BE IT FURTHER RESOLVED, That our warmest congratu-
 lations go to Valerie and Mac, and a hearty welcome to Arch;
 we hereby extend to him the privilege of the floor, and look
 forward to his career in Alabama politics.

BE IT FURTHER RESOLVED, That judging from the in-
 creasing successes of McDowell Lee's various efforts in his
 youth, young manhood and pre-middle age, we can't wait for
 next year.

Approved August 31, 1971.

Time: 11:30 A.M.

Act No. 661

S. 132—Shelby

AN ACT

To regulate further the summoning of witnesses in Tuscaloosa County; to provide that witnesses may be subpoenaed by United States mail in Tuscaloosa County under certain conditions; and to prescribe a mileage allowance for officers serving subpoenas to witnesses otherwise than by mail.

Be It Enacted by the Legislature of Alabama:

Section 1. Subpoenas requiring the attendance of witnesses in any civil, criminal, equity, or other case or proceeding in Tuscaloosa County, or before the grand jury of Tuscaloosa County may be served by the sheriff of Tuscaloosa County or constable personally or by leaving a copy thereof at the place of residence of the witness or in the discretion of the said sheriff of Tuscaloosa County the sheriff may serve the same by placing a copy thereof in the United States mail, enclosing the subpoena in an envelope properly stamped and addressed to the person or witness to be served. Upon service by the sheriff upon any witness or person by any one of the foregoing methods, the sheriff shall immediately mark the process executed. If the subpoena so mailed is not delivered to the addressee but is returned to the sheriff by the United States post office department, then the sheriff shall immediately make a diligent effort to serve the subpoena either personally or by leaving a copy thereof at the place of resident of the witness.

Section 2. Anything to the contrary notwithstanding in Section 1 above, any judge having jurisdiction of the proceeding or case may on motion of any party or on the Court's own motion order any particular subpoena or the subpoenas in any case or proceeding to be served personally or by leaving a copy thereof at the place of residence of the said witness or person or by United States registered or certified mail.

Section 3. Whenever a subpoena requiring the attendance of a person or witness in any case or proceeding in Tuscaloosa County is required pursuant to this Act to be served personally on the witness or by leaving a copy thereof at the place of residence of the witness, any law to the contrary notwithstanding, the sheriff of Tuscaloosa County shall be entitled to collect as costs of court ten cents per mile for each mile traveled in serving the same.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this Act are repealed.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:31 A.M.

Act No. 662

S. 505—Shelby

AN ACT

To regulate the compensation payable by the county to the stenographic secretary of the district attorney of any circuit in this state composed of one county having a population of not less than 110,000 nor more than 160,000.

Be It Enacted by the Legislature of Alabama:

Section 1. The salary of the stenographic secretary of the District Attorney of any circuit composed of one county having a population of not less than 110,000 nor more than 160,000, according to the most recent or any subsequent decennial census, shall be \$7,200.00 per annum, \$1,200.00 of this salary shall be paid by the State in the same manner as the salaries of other state officers are paid, and the remaining \$6,000.00 thereof shall be paid from the general fund of such county as the salaries of other county officers are paid.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:33 A.M.

Act No. 663

S. 532—Edington, Noonan, Pelham

AN ACT

To amend further Section 788 of Title 37, Code of Alabama 1940, as amended, relating to municipal planning commissions in all cities having populations of not less than 175,000 nor more than 275,000 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 788 of Title 37, Code of Alabama 1940, as amended is further amended to read as follows:

"Section 788. The commission shall consist of nine members, namely, the mayor, one of the administrative officials of the municipality selected by the mayor, and a member of the council to be selected by it as members ex-officio, and six persons who shall be appointed by the mayor, if the mayor be an elective officer, otherwise by such officer as council may in the ordinance creating the commission designate as the appointing power; provided, however, that in any city having, according to the last or any succeeding federal census, a population of more than three hundred thousand inhabitants, the commission shall consist of sixteen members, namely, the mayor, one of the administrative officials of the municipality selected by the mayor, two members of the council to be selected by it, all as members ex-officio, and twelve persons who shall be selected by the council. In addition to the regular members, in all cities having populations of not less than 175,000 nor more than 275,000, two supernumerary members shall be appointed to serve on such board at the call of the chairman only in the absence of regular members, and while so serving have and exercise the power and authority of regular members. All members of the commission shall serve as such without compensation, and the appointed member shall be six years or until his successor takes that one of such appointed members may be a member of the zoning board of adjustment or appeals, except in all cities having populations of not less than one hundred seventy-five thousand and nor more than two hundred seventy-five thousand, according to the most recent federal decennial census, wherein no members of such commission may be a member of the zoning board of adjustment or appeals and wherein all members of such commission shall be bona fide residents and qualified electors of such cities. The terms of ex-officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor selecting him. The term of each appointed member shall be six years or until his successor takes office, except that the respective terms of five of the members first appointed shall be one, two, three, four, and five years; provided, however, that in any city having a sixteen-member commission as provided above, the respective terms of five pairs of the members first appointed by council shall be one, two, three, four and five years. And provided further, that in all cities having populations of not less than 175,000 nor more than 275,000 the term of each appointed member of the commission shall be for three years. Members other than the member selected by council may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office; provided, further, that in any city having

a sixteen-member commission as provided above, members may, after a public hearing, be removed by council for any of the above reasons or for continued failure to attend meetings. Council may for like cause remove the member or members selected by it. The mayor or council, as the case may be, shall file a written statement of reasons for such removal. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of members selected or appointed by him, by council in the case of the council-manic member or other members selected by it, and by the appointing power designated by council in municipalities in which the mayor is not an elective officer."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:34 A.M.

Act No. 664

S. 534—Edington, Noonan, Pelham

AN ACT

To amend the Title and Section 1 of Act No. 227, H. 137, Special Session 1964 (Acts 1964, p. 313), which provides civil service or merit system status for Chiefs of Police of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title of Act No. 227, H. 137, Special Session 1964 (Acts 1964, p. 313) is hereby amended to read as follows:

"An Act relating to cities having populations of not less than 175,000 nor more than 275,000; providing civil service or merit system status for Chiefs of Police of such cities."

Section 2. Section 1 of said Act No. 227, H. 137, Special Session 1964 (Acts 1964, p. 313), is hereby amended to read as follows:

"Section 1. The Chiefs of Police Departments in all cities having populations of not less than 175,000 nor more than 275,000 according to the most recent Federal Decennial Census, shall be included in the classified service of the city as provided by any civil service or merit system regulations governing the appointment, tenure, activities, deportment and compensation of other municipal employees within any such city. Provided, however, that any person holding such position at the time of this act's passage, who shall have held this position

for at least one year prior to its enactment shall automatically be placed under civil service."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:35 A.M.

Act No. 665 S. 802—Lindsey, Edington, Wilder, Littleton
AN ACT

To transfer certain historic properties owned by the Conservation Department of the State of Alabama to the Alabama Historical Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The following historic properties and sites owned by the Alabama Department of Conservation, viz;

Fort Mims — Stockton, Baldwin County

Fort Toulouse — Wetumpka, Elmore County

Gaineswood — Demopolis, Marengo County

Confederate Memorial Cemetery — Mountin Creek, Chilton County

are hereby transferred to the Alabama Historical Commission which shall have full authority to develop, renovate, restore, preserve, maintain, operate, exhibit, and publicize them in accordance with the powers and responsibilities of the said Commission. The Director of Conservation shall cause an appropriate deed or conveyance to be executed in accordance with the provisions of this Act.

Section 2. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 3. This Act shall become effective on October 1, 1971.

Approved August 31, 1971.

Time: 11:36 A.M.

Act No. 666 H. 308—Parker (T), Culver, Robertson, Bank
AN ACT

To regulate further the summoning of witnesses in Tuscaloosa County; to provide that witnesses may be subpoenaed by United States

mail in Tuscaloosa County under certain conditions; and to prescribe a mileage allowance for officers serving subpoenas to witnesses otherwise than by mail.

Be It Enacted by the Legislature of Alabama:

Section 1. Subpoenas requiring the attendance of witnesses in any civil, criminal, equity, or other case or proceeding in Tuscaloosa County, or before the grand jury of Tuscaloosa County may be served by the sheriff of Tuscaloosa County or constable personally or by leaving a copy thereof at the place of residence of the witness or in the discretion of the said sheriff of Tuscaloosa County the sheriff may serve the same by placing a copy thereof in the United States mail, enclosing the subpoena in an envelope properly stamped and addressed to the person or witness to be served. Upon service by the sheriff upon any witness or person by any one of the foregoing methods, the sheriff shall immediately mark the process executed. If the subpoena so mailed is not delivered to the addressee but is returned to the sheriff by the United States post office department, then the sheriff shall immediately make a diligent effort to serve the subpoena either personally or by leaving a copy thereof at the place of residence of the witness.

Section 2. Anything to the contrary notwithstanding in Section 1 above, any judge having jurisdiction of the proceeding or case may on motion of any party or on the Court's own motion order any particular subpoena or the subpoenas in any case or proceeding to be served personally or by leaving a copy thereof at the place of residence of the said witness or person or by United States registered or certified mail.

Section 3. Whenever a subpoena requiring the attendance of a person or witness in any case or proceeding in Tuscaloosa County is required pursuant to this Act to be served personally on the witness or by leaving a copy thereof at the place of residence of the witness, any law to the contrary notwithstanding, the sheriff of Tuscaloosa County shall be entitled to collect as costs of court ten cents per mile traveled in serving the same.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this Act are repealed.

Section 6. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:37 A.M.

Act No. 667

H. 1121—Stubbs

AN ACT

To amend subsection (d) of Section 262, subsection (i) of Section 262, Section 263, paragraph (1) subsection (C) of Section 279, Sections 285, 289, 292, 293 and paragraph (5) of Section 309, all being of Title 26, Code of Alabama 1940, as last amended, relating to extending coverage, increasing disability, death and medical benefits, and providing penalties for non-compliance, all pertaining to the Workmen's Compensation Law.

Be It Enacted by the Legislature of Alabama:

Section 1. Subsection (d) of Section 262, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

(d) The term "employer" as used herein shall mean every person not excluded by section 263 of this title who employs another to perform a service for hire and to whom the "employer" directly pays wages, and shall include any person or corporation, co-partnership, or association, or group thereof, and shall if the employer is insured, include his insurer as far as applicable and shall not include one who regularly employs a number less than four in any business.

Section 2. Subsection (i) of Section 262, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

(i) The word "accident" as used in the phrases "personal injuries due to accident" or "injuries or death caused by accident" in articles 1 and 2 of this chapter shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body or damage to an artificial member of the body by accidental means.

Section 3. Section 263, Title 26, Code of Alabama 1940, as last amended, is hereby amended in the following respects:

Wherever the words "eight employees" appear in said section, said words are stricken and the words "four employees" inserted in lieu thereof.

Section 4. The last sentence of paragraph (1) of subsection (C) of Section 279, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

"Where a permanent partial disability follows a period of temporary total disability resulting from the same injury, the first fifteen weeks of such temporary total disability shall not be deducted from the number of weeks payable for the permanent partial disability."

Section 5. Section 285, Title 26, Code of Alabama 1940, as last amended, is hereby amended in the following respect:

Where the words "four hundred dollars" appear in said section, said words are stricken and the words "eight hundred dollars" inserted in lieu thereof.

Section 6. Section 289, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 289. Limitations on Compensation.—In no case hereunder, except as otherwise provided herein, shall the compensation paid hereunder be more than fifty-five dollars per week nor less than fifteen dollars per week, and in no case shall the total amount exceed \$22,000; provided, however, that effective July 1, 1972, in no case hereunder, except as otherwise provided herein, shall the compensation paid hereunder be more than sixty dollars per week nor less than fifteen dollars per week, and in no case shall the total amount exceed \$24,000.

Section 7. Section 292, Title 26, Code of Alabama 1940, as last amended is hereby amended to read as follows:

Section 292. Waiting period. — In cases of temporary total or temporary partial disability no compensation shall be allowed for the first three days after disability, except as provided by section 293 of this title, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 294 of this article. Compensation shall begin with the fourth day after disability and in the event the disability from the injury exists for a period as much as twenty-eight days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the twenty-eight days.

Section 8. Section 293, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

Section 293. Medical, surgical, and hospital service. — In addition to the compensation herein provided, the employer shall pay the actual cost of the repair, refitting or replacement of artificial members damaged as the result of an accident arising out of and in the course of employment and the employer shall pay the actual cost of reasonably necessary medical and surgical treatment and attention, medicine, medical and surgical supplies, crutches, original artificial members, and other apparatus, as may be obtained by the injured employee during the first three years of disability, or in case of death within said three years, obtained during the period occurring between the time of the injury and his death therefrom. The total liability of the employer under this section shall not exceed the aggregate of seventeen thousand five hundred dollars, and the pecuniary liability

of the employer for such services rendered the employee shall be limited to such charges as prevail for similar treatment in the community where the injured employee resides. In case an insurer of the employee or a benefit association is liable for such medical, surgical and hospital service, or for a part thereof, or in case the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding, or law, state or federal, without any loss of benefit to the employee, the employer shall not be required in such case to pay any part of such expense, unless said benefits are insufficient to pay as much as said seventeen thousand five hundred dollars, and in such event the employer shall be liable for the deficiency only. All cases of dispute as to the necessity and value of such services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation. In addition to the medical and surgical treatment provided during the first three years of disability, the employer may, if he so elects, furnish to the injured employee such medical and surgical treatment and attention, medical and surgical supplies, crutches, original artificial members, and other apparatus for such time thereafter as he desires to furnish same, and the employer shall accept the same; if the employer furnishes such medical and surgical attention and supplies during such three year period he shall not be liable under this section, except for such of said services and supplies as may, in an emergency, be procured by the employee elsewhere; in no event, however, shall the total liability hereunder exceed seventeen thousand five hundred dollars. The injured employee must submit himself to examination by the employer's physician at all reasonable times, if requested to do so by the employer but the employee shall have the right to have a physician of his own selection present at such examination, in which case the employee shall be liable to such physician for his services. The employer shall pay for the services of the physician making the examination at the instance of the employer. And in case of dispute as to the injury, the court may, at the instance of either party, or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person and report his findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with any reasonable request for examination or refuses to submit to medical and surgical treatment and attention, or refuses to accept the medical service which the employer elects to furnish under the provisions of this chapter his right to compensation shall be suspended, and no compensation shall be payable for the period of such refusal. Any physician whose services are furnished or paid for by the employer, or any physician of the injured employee, and who treats or makes or is present at any examination of an injured

employee may be required to testify as to any knowledge by him in the course of such treatment or examination as same related to the injury or disability arising therefrom. Any such physician shall, upon written request of the injured employee or his employer, furnish to such injured employee or his employer a written statement of his professional opinion as to the extent of the injury and disability. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the same. Physicians shall include medical doctor, surgeon and chiropractor.

Section 9. Paragraph (5) of Section 309, Title 26, Code of Alabama 1940, as last amended, is hereby amended to read as follows:

(5) Penalties for failure to secure compensation liability.—Any employer required to secure the payment of compensation under this chapter who fails to secure such compensation shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than twenty-five dollars nor more than one thousand dollars and in addition thereto any employer required to secure the payment of compensation under this chapter who fails to secure such compensation shall be subject to the same conditions and penalties as any employer who has elected not to come under article 2 of this chapter. The director is authorized to apply to any court of competent jurisdiction for an injunction to restrain threatened or continued violation of any provisions relating to the requirements of insurance or self-insurance.

Section 10. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. This act, with the exception of Section 1 and Section 3, shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law. Section 1 and Section 3 shall become effective ninety days from the effective date of this act.

Approved September 1, 1971.

Time: 5:50 P.M.

Act No. 668

H. 1122—Stubbs

AN ACT

To supplement the Workmen's Compensation Act of Alabama; to provide compensation for injured workmen and dependents of deceased

workmen; and without limiting the comprehensiveness and generality of the foregoing, to supplement Chapter 5, Title 26, Code of Alabama 1940, as amended, known as the Workmen's Compensation Act of Alabama, by adding thereto the following to be designated as Article 2C of said chapter prescribing the liability of an employer to make compensation by way of damages for disablement or death of an employee caused by occupational disease, other than occupational pneumoconiosis and occupational exposure to radiation, which arises out of and in the course of his employment; declaring said occupational disease is to be regarded as an accident without regard to negligence or fault, if any, of the employer, and providing for acceptance of the provisions hereof by election and for the enforcement of such liability, modifying common law, contractual and statutory remedies in such cases, regulating procedure for determination of such liability and the compensation payable and providing a period of limitation for filing suits on claims arising from occupational disease.

Be It Enacted by the Legislature of Alabama:

Section 1. Chapter 5, Title 26, Code of Alabama 1940, as amended, which is known as the Workmen's Compensation Act of Alabama, is hereby amended by adding thereto the following supplemental article, to be known as "Article 2C of the Workmen's Compensation Act of Alabama".

Article 2C — Occupational Diseases, Other Than Occupational Pneumoconiosis and Occupational Exposure to Radiation.

Section 1. General provisions. — Where the employer and employee are subject to the provisions of Chapter 5, Title 26, Code of Alabama 1940, as amended, the disablement or death of an employee caused by the contraction of an occupational disease as hereinafter defined, shall be treated as an injury by accident, and the employee or, in case of his death, his dependents shall be entitled to compensation as provided herein. In no case, however, shall an employer be liable for compensation by reason of the contraction of an occupational disease, as defined herein, or for disability or death resulting therefrom, unless such disease arose out of and in the course of the employment and resulted from the nature of the employment in which the employee was engaged.

Section 2. Occupational disease defined. — The words "occupational disease" shall mean a disease arising out of and in the course of employment, other than occupational pneumoconiosis and occupational exposure to radiation as defined in Articles 2A and 2B, respectively, of Chapter 5, Title 26, Code of Alabama of 1940, as amended, which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged, but without regard to negligence or fault, if any, of the employer. A disease (including, but not limited to, loss of hearing due to noise) shall be deemed an occupational disease only if caused by a hazard recognized as peculiar

to a particular trade, process, occupation or employment as a direct result of exposure over a period of time to the normal working conditions of such trade, process, occupation or employment. The term "contraction of an occupational disease" as used herein shall include any aggravation of such disease without regard to the employment in which the disease was contracted. The term "occupational disease" shall not include accidents within the meaning of Articles 2, 2A and 2B of Chapter 5, Title 26, Code of Alabama of 1940, as amended.

Section 3. Presumption as to acceptance of provisions of article; election not to accept. — All contracts of employment made on or after the effective date of this article shall be presumed to have been made with reference to and subject to the provisions of this article unless written or printed notice is given by either party to the other, at the time of employment, that he does not accept the provisions of said article, and a duplicate of such notice, with affidavit of service attached thereto, shall be filed with the department of industrial relations and with the probate judge of the county in which the employee is performing service at the time such notice is given, and which duplicate filed with the probate judge shall be recorded. All contracts of employment made prior to, and existing on, the effective date of this article shall be presumed to continue from and after said date, subject to and under the provisions of this article, unless within thirty days from said date, written or printed notice has been given by either party to the other, that he does not accept the provisions of said article, and a duplicate thereof with affidavit of service attached, filed with the department of industrial relations and with the probate judge as above provided. Every employer and every employee shall be presumed to have accepted and come under this article and the provisions thereof relating to the payment and acceptance of compensation, unless he shall have given notice, and a duplicate shall have been filed with the department of industrial relations and with the probate judge, as above provided, of his election not to accept or be bound by the provisions of said article.

Section 4. Termination of acceptance or election not to accept. — Either party may terminate his acceptance or his election not to accept the provisions of this article by thirty days' written notice to the other. A duplicate of such notice, with affidavit of service attached thereto, shall be filed with the department of industrial relations and with the probate judge of the county in which the employee is performing service at the time such notice is given, and the duplicate filed with the probate judge shall be recorded, and the time shall not begin to run until such notice is so filed with the department of industrial relations and with the probate judge. Upon termination

of the acceptance of the provisions of this article, the rights and remedies, if any, of the employee, his personal representative, surviving spouse, parents, dependents, and next of kin, on account of or arising out of any and all exposures to the hazard of an occupational disease as defined in this article occurring prior to the effective date of such termination, shall be limited to those provided in this article.

Section 5. Effect of acceptance. — The acceptance of the provisions of this article shall be a surrender by the parties thereto of their rights to any other method, form or amount of compensation or damages for the contraction of an occupational disease as defined in this article, or for injury, disability, loss of service or death resulting from such disease, arising out of and in the course of employment, or determination thereof in any manner other than as provided in this article, and shall be an acceptance of all the provisions of this article, and shall bind the employee himself, and for compensation for his death shall bind his personal representative, the surviving spouse, parents, dependents and next of kin, as well as the employer and those conducting his business during bankruptcy or insolvency, for compensation as provided for by this article.

Section 6. Other remedies excluded. — The rights and remedies herein granted shall exclude all other rights and remedies of an employee, his personal representative, parent, surviving spouse, dependents or next of kin, at common law, by statute, contract, or otherwise on account of the contraction of an occupational disease as defined in this article and on account of any injury, disability, loss of service or death resulting from an occupational disease as defined in this article; and except as herein provided in this article, no employer included within the terms of this chapter, shall be held civilly liable for the contraction of an occupational disease as defined in this article, or for injury, disability, loss of service or death of any employee due to an occupational disease, while engaged in the service or business of the employer, the cause of which occupational disease originates in the employment; but nothing in this section shall be construed to relieve any employer from criminal prosecution for failure or neglect to perform any duty imposed by law.

Section 7. Effect of election by employer or employee not to come under article. — If the employee elects not to become subject to this article, or terminates his acceptance of the article after once having been subject thereto, in any action brought to recover damages for the contraction of an occupational disease as defined in this article or for injury, disability or death resulting from said disease against an employer who has elected to come under this article, said employee or his personal representative shall proceed as at common law only, and such em-

ployee, his parents, surviving spouse, personal representative, dependents and next of kin, shall have no right of action under Sections 118, 119 and 123 of Title 7, and Sections 326 and 328 of Title 26, Code of Alabama of 1940, or any other right given by statute, and the employer in such suit may avail himself of all defenses as provided by statute, or at common law. If the employer elects not to become subject to this article, or terminates his acceptance of the article after once having been subject thereto, the employee having elected to come under this article, any right of action, which the employee, or in case of his death his personal representative, parents, surviving spouse, dependents and next of kin, shall have against the employer for injury, disability or death, resulting from the contraction of an occupational disease as defined in this article shall be unaffected by this article, and the employer in such action shall lose the right to interpose the following defenses: contributory negligence, assumption of risk, and negligence of a fellow servant.

Section 8. False representation by employee. — If an employee, at the time of or in the course of entering into the employment of the employer by whom the compensation would otherwise be paid, wilfully and falsely represented himself in writing to such employer as not having previously been compensated in damages, or under this article, because of occupational disease as defined in this article, such employee, his personal representative, parents, surviving spouse, dependents and next of kin, shall be barred from compensation or other benefits provided by this article, or from recovery at common law, by statute, contract or otherwise on account of occupational disease as defined in this article, resulting from exposure to the hazards of such disease subsequent to such representation and while in the employ of such employer.

Section 9. What employer liable under article; contribution. — Where compensation is payable under this article, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed to the hazards of said disease. The employer who is liable shall not be entitled to contribution from any other employer of such employee.

Section 10. Limitations of actions. — In case of the contraction of an occupational disease as defined in this article, or of injury or disability resulting therefrom, all claims for compensation shall be forever barred, unless within one year after the date of the injury as hereinafter defined, the parties shall have agreed upon the compensation payable under this article, or unless within one year after the date of the injury one of the parties shall have filed a verified complaint as provided in Section 304 of this title. In case of death, all claims for compensation shall be forever barred, unless the death results proximately from the occupational disease as defined in this article

and occurs within three years of the date of the injury as hereafter defined, and unless within one year after such death, the parties shall have agreed upon the compensation under this article, or unless within one year after such death one of the parties shall have filed a verified complaint as provided in Section 304 of this title. Where, however, payments of compensation have been made in any case, said limitations shall not take effect until the expiration of one year from the time of making the last payment. In case of mental incapacity of the injured employee or his dependents, to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any such case shall be extended to become effective one year from the date when such incapacity ceases. No agreement, express or implied, to shorten or to extend said limitations shall be valid or binding on either of the parties when said employment, at the time of said exposure, is or was subject to the provisions of this article. The date of the injury shall mean for all purposes of this article the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.

Section 11. Effect of acceptance or election not to accept upon rights and remedies arising from prior exposures. — Where both the employee and the employer have accepted the provisions of this article, all exposures of the employee occurring prior to the effective date of this act to the hazards of an occupational disease as defined in this article while in the employ of the employer shall be deemed for all purposes to be subject to the provisions of this article, and the employee, his personal representative, parents, surviving spouse, dependents and next of kin, shall be entitled to compensation or other benefits and barred from other rights and remedies as herein provided for exposures occurring after the effective date of this act. Where the employee elects not to accept the provisions of this article, the employer having accepted it, all liability, if any, ex contractu or ex delicto, of the employer for exposures of the employee occurring prior to the effective date of this act to the hazards of an occupational disease as defined in this article while in the employ of the employer shall be barred unless the employee, if living at the expiration of one year from the effective date of this act, shall, prior to the expiration of such one year period, file suit against such employer to recover damages caused by such prior exposures, or, if the employee dies as a result of such exposures prior to the expiration of such one year period, unless his parents or personal representative, as the case may be, shall file suit against such employer within one year after the expiration of such period to recover damages for such death, and no parent or personal representative of a deceased employee shall have or maintain any action or right of action against the

employer to recover damages for the death of such employee caused by such prior exposures when such employee is living at the expiration of one year from the effective date of this act; provided that nothing herein contained shall be construed as creating a right or cause of action where none existed at the expiration of such period or as extending the period of limitations applicable to any cause of action arising from such prior exposures which would be barred prior to the expiration of such period, or as conferring a right or cause of action upon any parent or personal representative of any deceased employee in cases where the employee at the time of his death could not have maintained an action against the employer. Where the employer elects not to accept the provisions of this article, the employee having accepted it, the provisions of this article shall not apply to exposures of the employee occurring prior to the effective date of this act to the hazards of an occupational disease as defined in this article while in the employee of the employer.

Section 12. Compensation payable under article. — The compensation payable for death or disability caused by an occupational disease as defined in this article shall be computed in the same manner and in the same amounts as provided in Chapter 5, Title 26, Code of Alabama 1940, as amended for computing compensation for disability or death resulting from an accident arising out of and in the course of the employment, and the medical, surgical, hospital and burial benefits payable hereunder caused by said disease shall be computed in the same manner and in the same amounts as provided in Chapter 5, Title 26, Code of Alabama 1940, as amended, for computing like benefits.

Section 13. No presumption; burden on claimant. — There shall be no presumption that disablement or death from any cause or infirmity is the result of an occupational disease nor that an occupational disease will result in disablement or death, and any person claiming compensation or other benefits under this act shall have the burden of establishing that he is entitled to such.

Section 14. Settlement of disputes. — The interested parties shall have the right to settle all matters of compensation and all questions arising hereunder between themselves in accordance with and subject to the provisions of Chapter 5, Title 26, Code of Alabama 1940, as amended, and, in case of a dispute, either party may submit the controversy to the circuit court in accordance with and subject to the provisions of this chapter.

Section 15. To what disabilities article applicable. — The provisions of this article shall apply to all cases of occupational disease as defined in this article, or injury, disability or death

therefrom, in which the last exposure to hazards of such disease occurred after the effective date of this act, except as otherwise provided herein.

Section 16. Applicability of other sections. — All of the provisions of Articles 1, 2, and 3 of Chapter 5, Title 26, Code of Alabama 1940, as amended, except Section 294, shall be applicable to this article, unless otherwise provided or inconsistent herewith.

Section 2. Severability. In the event any clause, sentence, paragraph, section, or other portion of this Act is held unconstitutional, such holding shall not affect the validity of the remainder.

Section 3. When act becomes effective. The provisions of this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 1, 1971.

Time: 5:45 P.M.

Act No. 669

H. 1233—Stubbs

AN ACT

To apply in counties having populations of not less than 36,500 nor more than 39,200 according to the most recent federal decennial census, designating the number of employees authorized by the sheriff's department, compensation of such employees, and sheriff and residence requirements of such employees, and to repeal conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having population of not less than 36,500 and not more than 39,200 according to the most recent federal decennial census in lieu of any and all chief deputy sheriff, deputies sheriff, jailers or matrons heretofore authorized by law, the sheriff is hereby authorized to appoint not less than the following number of employees whose compensation shall be paid from the county treasury each month in the amounts listed below.

Number of employees authorized	Rank	Compensation
1	Chief Deputy	Shall be comparable to a Captain in Alabama State Highway Patrol.

1	Lieutenant	Shall be comparable to a Lieutenant in Alabama Highway Patrol.
8	Deputies	Shall be comparable to State Troopers in Alabama State Highway Patrol
1	Matron	Shall be comparable to a Clerk Stenographer III in the Alabama Department of Public Safety
3	Jailers	Shall be comparable to State Troopers in Alabama State Highway Patrol
1	Chief Investigator	Shall be comparable to and not less than Alabama State Highway Patrol Investigator Sergeant, and not more than Alabama State Highway Patrol Investigator Captain; (between said limitations, the sheriff shall fix said employee's salary)
1	Sergeant	Shall be comparable to a Sergeant in State Trooper in Alabama State Highway Patrol
2	Patrolmen	Shall be comparable to State Trooper in Alabama State Highway Patrol.

Said one Chief Investigator's and one Sergeant's and 2 Patrolmen's salaries and other remuneration or benefits to said officers may be funded under the Law Enforcement Assistance Act so long as such funds are available, and when not available, said officers shall be paid out of the General Fund of Shelby County or out of any other fund from which the Shelby County Commission elects to pay said officers.

Section 2. All above named personnel shall be required to complete such training, schooling and inservice training as

are from time to time required and prescribed by the Sheriff of Shelby County, Alabama, such training, schooling and in-service training be paid by the county governing body.

Section 3. The word experience as mentioned above in this Act shall mean time spent in the employment of any recognized law enforcement agency of the Federal Government, any State of the United States, or any county or municipality thereof.

Section 4. In addition to the compensation referred to in Section 1 of this Act all employees of the sheriff's department described in Section 1 of this Act shall be entitled to \$20.00 per month compensation for uniform allowance which shall be paid from the county treasury.

Section 5. Each employee of the sheriff's department referred to in this Act shall be a resident of the county or become a resident of the county within six months after employment by the sheriff's department.

Section 6. In addition to the employees authorized in Section 1 of this Act, the sheriff is hereby authorized to appoint as many additional special deputies as he deems necessary, which special deputies shall serve without compensation from the county treasury.

Section 7. The sheriff of Shelby County shall continue to receive not less than the same compensation and allowances each month after the passage of this Act as he received each month after taking office during his present term of office beginning January 1971.

Section 8. All compensation and number of personnel shall be considered to be minimum numbers of personnel and compensation thereof and the same may be increased at the discretion of the Shelby County Commission but shall not be decreased.

Section 9. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 10. Any law or parts of law in conflict with this Act including any parts of Act No. 94, Acts of Alabama 1965, Page 117 which may conflict with the provision of this Act are hereby repealed.

Section 11. Upon the passage of this Act by the Alabama Legislature and adoption by the Governor, or its otherwise becoming law, it shall become effective October 1, 1971. Act No. 484, Regular Session 1967 shall be repealed effective October 1, 1971.

Approved September 2, 1971.

Time: 4:20 P.M.

Act No. 670

H. 1234—Stubbs

AN ACT

To create and establish the Shelby County Inferior Court; to prescribe its jurisdiction and procedure; to provide for its officers and employees and for their duties, power, qualifications, compensation, and the manner of their appointment or election; and to repeal conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby established in and for Shelby County, Alabama, an Inferior Court of Law, both civil and criminal, which shall be called the Shelby County Inferior Court. It shall have preliminary jurisdiction only of all felonies, and its civil jurisdiction shall not exceed the sum of \$1,500.00, exclusive of the interest and cost, except, that in any civil action filed where a cross-action, counter-claim, set off or plea in recoupment is filed claiming in excess of \$1,500.00, the Court shall have jurisdiction of said action and shall proceed with it to a conclusion; and said Court shall have concurrent jurisdiction with justices of the Peace of Shelby County in all civil matters; and shall have exclusive original jurisdiction in all misdemeanors committed in Shelby County, except misdemeanors returned by the Grand Jury to the Circuit Court; and shall have exclusive original jurisdiction of paternity proceedings and of unlawful detainer, and other criminal or quasi-criminal proceedings cognizable before Justices of Peace Courts. The Shelby County Inferior Court shall have exclusive jurisdiction over children and the Judge of said court shall be Judge of the Juvenile Court; it being the intention to confer complete, full, unlimited and exclusive jurisdiction upon said Shelby County Inferior Court of all juvenile matters and juvenile jurisdiction in Shelby County, Alabama, as now provided under Title 13, Chapter 7, Sections 350 to 383, both inclusive, of the Code of Alabama of 1940, or as hereafter amended, and appeals in such cases shall be as provided by law. The Clerk of said Shelby County Inferior Court is hereby made the Clerk of such Court exercising such jurisdiction over juvenile matters. Shelby County Inferior Court shall also have exclusive and original jurisdiction of all cases arising under Title 34, Article 3, Section 89 to 104, both inclusive, of the Code of Alabama of 1940, as Recompiled, which Article 3 is entitled Desertion and Non-Support and of paternity proceedings arising under Title 27, Chapter 2-A of the Code of Alabama of 1940, as recompiled. The trial of such cases shall be by the Court without a jury and appeals in such cases shall be as provided by law. The Judge of said Shelby County Inferior Court shall be the Judge of the Domestic Relations Court, it being the intention to confer complete, full, unlimited and exclusive jurisdiction upon said Shelby County Inferior Court of all domestic relations matters arising under Title 34, Article 3,

Section 89 to 104, both inclusive, of the Code of Alabama of 1940, as recompiled or as amended or as hereafter may be amended. The Shelby County Inferior Court shall not be a court of record.

Section 2. The Governor of the State of Alabama shall appoint a Judge to serve as Judge of said Court until the next general election to be held in 1972; his interim term shall begin immediately after his appointment by the Governor and he takes his oath of office. A judge of said Court shall be elected by the qualified electors of Shelby County, at the general election to be held in 1972, and each six years thereafter, and the term of the Judge of said Court shall commence on the second Tuesday after the first Monday in January following his election, and shall continue for a period of six years and until his successor shall be elected and qualified. The Judge of said Court, before entering upon the duties of said office, shall take the oath required by law to be taken by Judges of the Circuit Courts of Alabama. The said Judge shall be a domiciled resident and a qualified elector of Shelby County, Alabama, shall be learned in the law, and shall be a member in good standing of the Alabama State Bar or shall have had at least 4 years experience serving as a Judge of a municipal recorder's court or of a municipal Mayor's court, and shall not be less than twenty-five years of age. The said Judge shall devote his entire time to the duties of his office, and if a lawyer, shall be barred from the practice of law during his term of office. Said Judge may be removed from office in the manner and for the causes now provided by law for the removal of Circuit Judges. Vacancies in the office of the Judge of said Court shall be filled by appointment by the Governor, and the person so appointed shall hold office as required by the Constitution and law of this State. The Judge of said Court shall receive a salary of \$10,000.00 per annum, payable in twelve equal monthly installments out of the county treasury at the end of each month.

Section 3. (a) The Clerk of the Circuit Court of Shelby County, Alabama, shall be ex-officio clerk of the Shelby County Inferior Court and shall have the same powers and discharge the same duties as Clerks of the Circuit Courts, and shall be subject to the same pains and penalties with regard to the duties of the office.

(b) It shall be the duty of the clerk to keep all the books, papers, files, and dockets of the court in an orderly manner and to perform all other duties required by the judge.

(c) The clerk shall have power and authority:

(1) to administer oaths and take acknowledgments and affidavits;

(2) to sign and issue all processes issuing out of the court, including warrants, summonses, subpoenas, writs, executions, commitments, and releases;

(3) to fix bail and approve bonds;

(4) to enter all judgments, orders, and decrees of the court;

(5) to certify all appeals;

(6) to issue certificates of judgment, and

(7) to exercise all powers and authority which are now or may be hereafter conferred on clerks of circuit courts.

(d) The clerk shall attend all sessions of the court in person or by deputy.

Section 4. The Deputy Solicitor of Shelby County, Alabama, shall be the Solicitor of said Court and in addition to duties now imposed upon said Solicitor, he shall be required to attend said Court and therein prosecute all cases of a criminal or quasi-criminal nature wherein the State is a party to the case; and for such services he shall receive a salary of \$6,800.00 per annum which shall be in lieu of the amount now fixed by law for his salary as Deputy Solicitor, and is to be paid in twelve equal monthly installments out of the County Treasury at the end of each month, his signed receipt being required. The Deputy Solicitor may employ a clerical assistant who shall serve at his will and pleasure and perform such duties as he may prescribe. The clerical assistant shall be entitled to a salary of \$1,200.00 per annum, which salary shall be paid in equal monthly installments out of the County Treasury on warrants drawn in the manner prescribed by law.

Section 5. The said Shelby County Inferior Court shall be held at the court house of Shelby County, Alabama, and that said court shall be open at all times for the trial of cases and transactions of business. In case of sickness or disqualification of the Judge of said Court, the said Clerk of said Court shall appoint a special judge and the special judge appointed shall receive for his services the same pay that special Circuit Judges receive for their services and the same to be paid out of the general funds of Shelby County, Alabama, on the certificate of the Clerk making the appointment. The Judge of said court shall be subject to the same penalties for failure to attend upon the Court as are Circuit Judges of this State. The Judge of said court shall keep an office in the court house of Shelby County, Alabama, or at such other suitable place as may be provided by the Commissioners of Shelby County, Alabama, and it shall be the duty of said commission to provide such office and supply the same with all furnishings, fixtures, stationery,

telephone and other supplies necessary to enable the Judge of said court to efficiently conduct the affairs of his office.

Section 6. The Judge of said Court shall have the right and power to determine and fix the time of holding the sessions of said Court for the trial of all cases, as he may deem expedient; provided, however, a session of said Court for the trial of criminal and civil cases shall be held at least once each calendar month.

Section 7. Any party feeling aggrieved from the judgment of said Court rendered in any civil cause, may appeal from said judgement to the Circuit Court of Shelby County, Alabama, by giving security for the costs, the same to be approved by the Clerk or Judge of said Shelby County Inferior Court, or if the party desiring to appeal, wishes to supersede the judgment of said court, then he may give security for costs and a supersedeas bond in double the amount of the judgment, to be approved by the Judge or Clerk of said court. All appeals from judgments in civil causes in said court shall be taken to the Circuit Court within thirty days after the rendition of the judgment, and all appeals taken from said court shall be tried de novo in the Circuit Court in any case appealed from said Court to the Circuit Court. The appellant, within ten days, after the perfection of his appeal and the appellee, within ten days after notice of appeal is served on him, may have the issues of fact tried by a jury in the Circuit Court by filing with the Clerk of the Circuit Court written demand for a trial of said cause by a jury.

Section 8. In all criminal cases of conviction in said Shelby County Inferior Court, the defendant shall have the right of appeal to the Circuit Court of Shelby County, on entering into bond, with sufficient surety, to appear at the term of the Court to which the appeal is taken, and from term to term until discharged; the bond to be in such penalty as the Judge of the Shelby County Inferior Court may prescribe, and to be approved by the Judge or Clerk of said Court. If the defendant does not make the bond required he shall remain in custody and defendant may, within ten days after taking said appeal, demand in said Circuit Court a trial by jury; otherwise, said case shall be tried by the Court without a jury.

Section 9. The Supreme Court and the civil and criminal Courts of Appeal of this State shall have appellate and supervisory jurisdiction over said court and the Judge thereof, which may be exercised in the same manner as such jurisdiction may be exercised over the Circuit Courts of the State, and the Judge thereof.

Section 10. There shall not be any jury trials in the Shelby County Inferior Court in the trial of civil and criminal cases.

Section 11. Any civil cases now or hereafter pending in the Circuit Court of Shelby County, Alabama, may be by agreement of the parties thereto, transferred from the said Circuit Court to the Shelby County Inferior Court and any civil cases pending in the Shelby County Inferior Court may be, by agreement of the parties thereto, transferred from said Shelby Inferior Court to the Circuit Court of Shelby County, Alabama.

Section 12. The procedure, practice and rules governing the Circuit Courts of Alabama now, or which hereafter may be adopted, shall in all things apply to and govern the procedure and practice of the Shelby County Inferior Court, except as otherwise provided herein.

Section 13. The Sheriff of Shelby County shall, in person or by a deputy, appointed by him, with approval of the Judge of said court, be required to attend upon said court in preserving order, and execute all writs of process issued out of and returnable to this court and perform such other duties in all respects as in the Circuit Court of this State, except as herein otherwise provided. No other persons, including constables, shall perform any duties set out herein.

(a) A bailiff shall be appointed by the sheriff to serve upon this court at the request and on the approval of the Judge of said court.

Section 14. If, for any reason, forfeiture be taken on any bond on the criminal side of said court, the court may order the alias capias returnable instanter or within ten days, and unless the party or parties against whom the forfeiture is taken shall appear and show cause, when the forfeiture is returnable, why the forfeiture should be set aside, then, the court is hereby authorized and empowered to make the judgment final.

Section 15. The Judge of said Shelby County Inferior Court shall adopt a seal for said Court, which shall be kept in the custody and control of the Clerk of the Court.

Section 16. When the summons, writ of attachment, summons and complaint in attachment, or other process in law has been executed on the defendant or service perfected on him, as required by law, the defendant shall appear and plead, answer or demur thereto within the time now, or which hereafter may be, provided by law, in the Circuit Court.

Section 17. Prosecutions for misdemeanors committed in Shelby County may be instituted in the said court by making an affidavit before the Judge, Clerk or the Solicitor of said court, the writ on said affidavit to be issued by the Judge, Clerk or the Solicitor of said Court, and when the defendant is arrested on

said affidavit and warrant, the case shall go on the docket for trial, and be tried as though the defendant has been indicted by a grand jury, provided, however, that the affidavit or complaint may be amended, as now provided for amendment of such papers by Section 347, Title 13, of the Code of Alabama of 1940 as recompiled. All affidavits or warrants for criminal or quasi criminal acts of whatever kind issued by the Justices of Peace of Shelby County shall be returnable to this Court.

Section 18. The Judge or Solicitor of said Shelby County Inferior Court and Justices of the Peace shall have the power to issue search warrants. The Judge of said court shall have the power to issue writs of habeas corpus and certiorari writs, and the procedure, practice and rules of the Circuit Courts of Alabama relating to such writs as are now, or which hereafter may be provided by law, except as otherwise provided in this Act, shall prevail in the Shelby County Inferior Court, and the Judge thereof shall have the same powers and authority including punishment for contempt as is or hereafter may be conferred upon the Judge of the Circuit Courts of Alabama, unless otherwise provided by this Act.

Section 19. The Judge of the Shelby County Inferior Court shall have the power and the authority to secure the services of a competent Court Reporter to attend the sessions of the Court and report all criminal preliminary hearing cases tried when request therefor is made by any party to the suit. The Reporter shall serve at the will and pleasure of the Judge of said Court. The Reporter shall receive a minimum of \$10.00 and a maximum of \$25.00 for each day, or fraction thereof, that he or she is called upon to serve, to be paid out of the County Treasury of the County on a warrant drawn thereon by the Judge of said Court and in addition he or she shall receive for his or her own use from the parties interested, at their request, fifteen cents (15¢) per hundred words for making a transcript of evidence taken by such reporter and appending thereto his or her certificate to the correctness of the same; and five cents (5¢) per hundred words for each copy thereof, to be paid to said Reporter in advance, upon ordering such transcript or copy thereof. The Reporter shall be required to keep his or her notes for public use and inspection.

Section 20. Upon the effective date of this Act all fines and forfeitures assessed and collected in the Shelby County Court shall be deposited in the General Funds of Shelby County, except as otherwise provided by law. Claims accruing in the Shelby County Inferior Court will be claims against said fund, and such claims must be paid in the order in which they are registered, as provided by law.

Section 21. It shall be the duty of the clerk of said court to keep a record upon which shall be recorded all affidavits

made before the Judge, Clerk or Solicitor of said Shelby County Inferior Court or returnable by a Justice of the Peace to said court, and if any of said affidavits should be lost or destroyed, a certified copy of the said record shall be used the same as the original affidavit and for recording each of said affidavits, the Clerk shall charge a fee of seventy-five cents to be taxed as costs in case of the defendant's conviction, and which shall be paid into the county treasury.

Section 22. Judgments or decrees rendered by said Shelby County Inferior Court shall be a lien on the property of the judgment debtor which is subject to levy and sale under execution in the same manner and for the same period of time as is now, or as hereafter may be, provided by law for courts which are not courts of record of this state upon the filing in the office of a Judge of Probate of a certificate of the said judgment or decree issued by the Clerk of the said court as is now, or as hereafter may be, provided by law; and the said judgment or decree may be revived in the manner now, or as hereafter may be, provided by law.

Section 23. The venue of any case in the said Shelby County Inferior Court may be changed to other counties as it is now, or as it hereafter may be, provided by law.

Section 24. Final judgments rendered in said Shelby County Inferior Court shall, after the expiration of thirty days from their rendition, be taken and deemed to have passed beyond the control of said court, as if the term of court at which judgments were rendered had ended, provided, however, that nothing herein contained shall prevent the parties applying for a new trial or rehearing within thirty days, or change or destroy the office of motion for new trials or rehearings, when so made, or shall prevent parties from applying to said court for rehearing under statutes authorizing applications for rehearing in the Circuit Court.

Section 25. The Law and Equity Court of Shelby County Alabama, as created by Act 246, page 347, Volume 1, Acts of Alabama, 1965 Regular Legislative Session, be and the same is hereby abolished, and from and after the effective date of this Act shall no longer exist, and no officer of this State or County shall collect any fees or salaries because of said court, or for services rendered in said court, and all cases pending in the Law and Equity Court of Shelby County, Alabama, as created by said Act 246, upon the effective date of this Act, shall immediately become pending upon the docket of the Shelby County Inferior Court, as though originally brought in said Court, and shall be called for trial as above provided, and all judgments and decrees heretofore rendered in the Law and Equity Court of Shelby County, Alabama, and pending in said Court shall be

transferred to the Shelby County Inferior Court and the said Shelby County Inferior Court shall have the same powers and control over such judgments and decrees and shall issue execution and other processes thereon in all respects as if the judgment or decree had been originally rendered in said Shelby County Inferior Court.

Section 26. Except as prohibited by the general law, a trial tax of three dollars (\$3.00) shall be imposed in each case, civil and criminal, which is docketed in said Shelby County Inferior Court, to be taxed and collected as other costs and when collected, to be paid by the Clerk of said Shelby County Inferior Court into the General Funds of the county as other costs. In civil cases at law where the amount involved is fifty dollars or less, a trial tax of only \$1.00 shall be imposed and collected. In all criminal cases where the defendant is charged with violating any of the penal sections of Title 36, Code of Alabama 1940, as recompiled and amended or supplemented, and in cases involving violations of the penal sections of Title 8, Code of Alabama 1940, as recompiled and amended or supplemented, and in cases involving violations of the penal provisions of Act No. 576, H. 256, Regular Session of 1959 (Acts of 1959, p. 1442) or of any and all other laws relating to the registration of vessels and their operation on the waters of the State or to water safety, and pleads guilty, no trial tax shall be imposed or collected; and in every other criminal case where the defendant pleads guilty and no appeal is taken or where the case is not pressed upon the payment by the defendant of the costs no trial tax shall be taxed and collected.

Section 27. This Act shall in no way affect the present authority and jurisdiction of Municipal Courts.

Section 28. Witnesses summoned and attending the Shelby County Inferior Court shall be entitled to the same per diem and mileage as are paid witnesses in the Circuit Court of Shelby County, Alabama, and also witnesses summoned for the State in preliminary hearings shall be paid in the same manner as state witnesses in the Circuit Court.

Section 29. The Clerk, with the approval of the Judge of said Shelby County Inferior Court is hereby authorized and required to purchase all necessary furnishings, records, stationery and supplies for the equipment and maintenance of said court, and the same shall be paid out of the county treasury upon warrants drawn by the Judge and signed by the Clerk.

Section 30. If for any reason, any section, provision or clause of this Act shall be held to be unconstitutional or invalid, that fact shall not destroy the constitutionality of this Act except as to that clause or section.

Section 31. All laws or parts of laws which conflict with this Act are repealed.

Section 32. After the passage of this Act by the Legislature and approval by the Governor, or its otherwise becoming law, it shall become effective September 1, 1971.

Approved September 2, 1971.

Time: 4:15 P.M.

Act No. 671

H. 1451—Merrill, Burgess, Stewart
AN ACT

To amend the title and Section 1 and 2 of Act No. 832, H. 1501, Regular Session 1961 (Acts 1961, p. 1227), as last amended, which regulates the sale and consumption of alcoholic beverages in certain places in counties classified on a population basis, provides for referendum of the voters in such counties to determine the wet-dry status of any other places in such county, and prescribes penalties for violations of the act in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 832, H. 1501, Regular Session 1961 (Acts 1961, p. 1227), as last amended, is amended to read as follows:

“An Act Relating to counties having a population of not less than 95,000 nor more than 115,000 inhabitants according to the last or any subsequent federal decennial census; prohibiting the sale of alcoholic beverages in certain places in such counties; prohibiting consumption of alcoholic beverages in certain places in such counties; providing that the Act shall not be construed as authorizing or legalizing the sale of alcoholic beverages at any other places in such county in which a majority of the qualified electors of the county voting at a referendum held for that purpose have voted that the county shall be a dry county; prescribing penalties for violations of the Act.”

Section 2. Section 1 of said Act No. 832, H. 1501, as last amended, is amended to read as follows:

“Section 1. This Act shall apply only in counties having a population of not less than 95,000 nor more than 115,000 inhabitants according to the last or any subsequent federal decennial census.”

Section 3. Section 2 of said Act No. 832, H. 1501, as last amended, is amended to read as follows:

“Section 2. It shall be unlawful for any person, firm or corporation to sell or offer for sale any spirituous, vinous, or

malt or brewed beverages in any county in which this Act applies except within the corporate limits of incorporated municipalities in said counties having populations of not less than 15,000 according to the most recent federal decennial census, and except within the corporate limits of any other municipality within the county when the governing body of such municipality has approved the sale or offering for sale within such corporate limits of spirituous, vinous, malt or brewed beverages. Provided, however, no municipal governing body in authorizing the sale of such beverages in such municipality shall pass any municipal law, ordinance or resolution in conflict with any other provision of this Act.

"No municipality shall be authorized to license any business to sell any spirituous or vinous liquors or beverages or any malt or brewed beverages for consumption on the premises where sold unless approved by a majority of the duly qualified voters of any municipality within said county in an election called by the governing body of such municipality."

Section 4. Section 5 of said Act No. 832, H. 1501, as last amended, is amended further to read as follows:

"Section 5. It shall be unlawful for any spirituous or vinous liquors or beverages to be sold other than in a State Liquor Store, except as herein provided."

Section 5. Section 6 of said Act No. 832, H. 1501, as last amended, is amended further to read as follows:

"Section 6. It shall be unlawful for any malt or brewed beverages to be sold for consumption on the premises where sold except as herein provided."

Section 6. Section 7 of said Act No. 832, H. 1501, as last amended, is further amended to read as follows:

"Section 7. It shall be unlawful for malt or brewed beverages to be consumed on the premises where bought except as herein provided."

Section 7. All laws or parts of laws which conflict with this Act are repealed.

Section 8. This Act shall become effective September 1, 1971.

Approved September 2, 1971.

Time: 4:30 P.M.

Act No. 672

H. 1985—Bowers, Weeks, Stubbs, Barkett,
Jones (E), Waggoner

AN ACT

To amend Subsection L of Section 214, Title 26, Chapter 4, Code of Alabama 1940, as last amended by Act No. 88, 1971 Regular Session of the Alabama Legislature, relating to denial or reduction of unemployment compensation benefits for receipt of training allowances.

Be It Enacted by the Legislature of Alabama:

Section 1. Subsection L of Section 214, Title 26, Chapter 4, Code of Alabama 1940, as last amended, is hereby amended to read:

“§ 214 L. For any week with respect to which or a part of which an individual who is enrolled in a course of training with the approval of the director, within the meaning of subsection C of section 213 of this chapter, has applied for or is entitled to receive any wage or subsistence or training allowance or other form of remuneration, other than reimbursement for travel expenses, for a course of training under any public or private training program; provided that if it is finally determined that he is not entitled to such remuneration, this disqualification shall not apply.

If the remuneration, the receipt of which is disqualifying under this subsection, is less than the weekly benefits which he would otherwise be due under this chapter he shall be entitled to receive, if otherwise eligible, weekly benefits reduced by the amount of such remuneration."

Section 2. All laws and parts of laws in conflict herewith are hereby repealed.

Section 3. The provisions of this act shall apply to any week of unemployment beginning on or after July 14, 1971.

Section 4. This act to take effect upon its passage and approval by the Governor or its otherwise becoming law.

Approved September 2, 1971.

Time: 5:00 P.M.

Act No. 673

H. 2647—Waggoner, Bowers, Meeks, Ellis,
Falkenburg, Boles, Wallace, Dill,
Timmons, Parker (H), Gafford,
McBride, Doss, Adwell, Weeks,

Gloor, Jones (E), Erdreich,
Boutwell

AN ACT

To alter and re-arrange the boundary lines of the City of Birmingham, Alabama, so as to include within the corporate limits of said City all territory now within such corporate limits and also certain other territory in Jefferson County, Alabama, contiguous to said City.

Be It Enacted by the Legislature of Alabama:

Section 1. That, from and after the passage and approval of this Act the boundary lines of the City of Birmingham, Jefferson County, Alabama, be and the same are altered and re-arranged so as to include within the corporate limits of said City, in addition to the territory included within its present corporate limits, the territory lying and situated in Jefferson County, Alabama, contiguous to said City, more particularly described as follows:

A tract of land situated in part of Section 29, Township 16 South, Range 1 West; part of Section 32, Township 16 South, Range 1 West; part of Section 33, Township 16 South, Range 1 West; and part of Section 5, Township 17 South, Range 1 West; all in Jefferson County, Alabama, and being more particularly described as follows:

Begin at the Southeast Corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 29 and run North along the East line thereof to the crest of Red Mountain; thence Northwesterly and Southwesterly along the crest of Red Mountain to its intersection with the North line of said Section 32; thence West along the North line of said Section 32 to the Northeast Corner of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 32; thence South along the East line of said quarter-quarter Section to the Southeast Corner thereof; thence West along the South line of said quarter-quarter Section to the Northeast Corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 32; thence South along the East line of said quarter-quarter Section to the Southeast Corner thereof; thence West along the South line of said quarter-quarter Section to a point that is 350.00 feet East of the West line of said Section 32; thence South along a line 350.00 feet Easterly of and parallel to the West line of said Section 32 to its intersection with a line that extends from the Northwest Corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 32 to a point on the South line of said Section 32 that is 784 feet Easterly of the Southwest Corner of said Section 32; thence Southeasterly along said last mentioned line to the South line of said Section 32; thence West along the South line of said Section 32 for 784 feet to the Southwest Corner thereof; thence South along the West line of Section 5, Township 17 South, Range 1 West to its intersection with the Northwesterly Right of Way

line of Interstate Highway I-59; thence Northwesterly along said Right of Way line to its intersection with the Southwesterly Right of Way line of Edwards Lake Road; thence Northwesterly along said Right of Way to its intersection with the North line of Section 32, Township 16 South, Range 1 West; thence West along the North line of said Section 32 to the Point of Beginning.

Except that part of SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 32, Township 16 South, Range 1 West, described as follows:

Commence at the Northwest Corner of said quarter-quarter Section; thence East along the North line thereof for 559.36 feet; thence 90° 49' right and run Southerly for 452.32 feet to the Point of Beginning; thence continue Southerly along last stated course for 315.00 feet; thence 90° 49' left and run Easterly 315.00 feet; thence 89° 11' left and run Northerly for 315.00 feet; thence 90° 49' left and run Westerly 315.00 feet to the Point of Beginning.

Section 2. That this Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 2, 1971.

Time: 5:15 P.M.

Act No. 674

H. 797—Turnham, Brassell, Adams
AN ACT

To provide office furniture, supplies, and equipment and a secretary for the Circuit Judge for the Thirty-seventh Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The Circuit Judge of the Thirty-seventh Judicial Circuit may, upon authorization of the County Commission of the county comprising said circuit, appoint a stenographic secretary, who shall serve at the pleasure of the Circuit Judge and shall perform such duties as he may direct. The compensation of such secretary shall be fixed by the Circuit Judge at a sum not exceeding Four Thousand Eight Hundred Dollars (\$4,800.00) per annum and shall be paid in monthly installments on warrants of the treasurer of the county constituting the Thirty-seventh Judicial Circuit.

Section 2. The Circuit Judge of the Thirty-seventh Judicial Circuit shall be provided, at the expense of the county constituting said circuit, with such office supplies, furniture, and equipment as may be necessary for the performance of the duties of such office.

Section 3. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 4. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:38 A.M.

Act No. 675

H. 826—Smith (P)

AN ACT

To repeal Act No. 115, H. 141, Special Session 1967, approved May 5, 1967, entitled "An Act To amend Section 8 of Act No. 231, S. 238, Regular Session 1947 (Gen. Acts 1947, p. 94), and Act to authorize the incorporation of public corporations in municipalities for the purpose of owning and operating athletic and recreational facilities, so as to authorize such corporations to exercise the power of eminent domain within a certain extended area; applying only to counties having a population of 65,000 to 95,000."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 115, H. 141, Special Session 1967, approved May 5, 1967, entitled "An Act To amend Section 8 of Act No. 231, S. 238, Regular Session 1947 (Gen. Acts 1947, p. 94), an Act to authorize the incorporation of public corporations in municipalities for the purpose of owning and operating athletic and recreational facilities, so as to authorize such corporations to exercise the power of eminent domain within a certain extended area; applying only to counties having a population of 65,000 to 95,000," is hereby expressly repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:39 A.M.

Act No. 676

H. 845—Cottingham, Turner

AN ACT

To apply only in counties having populations of not less than 54,500 nor more than 56,000; enabling the County Governing Body to pay dues and expenses to meetings for elected and appointed county officials.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 54,500 nor more than 56,000, according to the most recent federal decennial census, to enable the County Governing Body to pay dues for the elected and appointed county officials to their respective state and national organizations, and to pay reasonable expenses to attend the meetings of their respective state and national organizations.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:40 A.M.

Act No. 677

H. 891—Merrill, Stewart, Burgess

AN ACT

To alter, rearrange and extend the boundaries and corporate limits of the City of Oxford, Calhoun County, Alabama, so as to annex certain territory to the City.

Be It Enacted by the Legislature of Alabama:

SECTION 1. The boundaries and corporate limits of the City of Oxford, Calhoun County, Alabama, are hereby altered, rearranged and extended so as to include within the corporate limits of the City the following described territory in addition to the area now embraced within such boundaries and corporate limits, to-wit:

PARCEL I

A parcel of land situated on the North Side of U.S. 78 (By Pass) Highway in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 35, Township 16 South, Range 7 East, more particularly described as: Beginning at the Southeast Corner of the land of E. R. Mansell, recorded in Deed Book 882, Page 512, in the Office of the Judge of Probate of Calhoun County, Alabama, which point is 210 feet East of a point on the West Line of the said NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 35 a distance of 900 feet South of the Northwest Corner of said quarter-quarter; thence North 4 degrees 30 minutes 07 Sec. West 483.37 feet to a point on the Southerly right-of-way line of the Harbison-Walker Refractories Company's spur track, shown in deed Book 212, Page 348; thence South 59 degrees 14 minutes 16 seconds east 379.76 feet along

the said right-of-way line to a point; thence south 24 degrees 08 minutes 15 seconds east 370.73 feet along the West Line of the land of J. F. King, recorded in Deed Book 913, Page 579, to a point on the northerly right-of-way line of the said U. S. 78 Highway; thence South 65 degrees 51 minutes 45 seconds west 113.69 feet along the right-of-way line to a point; thence north 73 degrees 53 minutes 00 seconds West 350 feet to the point of beginning; situated and lying in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 35, Township 16 South, Range 7 East, Calhoun County, Alabama, as shown by plat hereto attached and made a part hereof.

LESS AND EXCEPT: To find the point of beginning, commence at a brass marker where the north right of way line of U.S. Highway # 78 intersects the West Line of the right of way of the Harbison-Walker or Southern Railway Spur Track; thence South 65 degrees 51 minutes 45 seconds West 101.2 feet to another brass marker; thence North 24 degrees 08 minutes 15 seconds west 50 feet to another brass marker on the North Line of the right of way of said Highway #78; thence south 65 degrees 51 minutes 45 seconds west along said north right of way line 155.8 feet to said point of beginning; thence north 24 degrees 08 minutes 15 seconds west 370.73 feet to the west right of way line of said spur track; thence south 65 degrees 51 minutes 45 seconds west 103 feet; thence southerly to a point which is 173 feet from the east line of the property described herein and is 200 feet 10 inches from the north line of the right of way of said Highway # 78; thence South 24 degrees 8 minutes 15 seconds east 200 feet 10 inches to the north line of said highway right of way; thence North 65 degrees 51 minutes 45 seconds east along said right of way 173 feet to said point of beginning; said property being located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 35, Township 16 South, Range 7 East, in Calhoun County, Alabama.

PARCEL II

Starting at the SW Corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 35, Township 16, Range 7 East; thence running East-erly along the North Line of right-of-way of Highway 78 approximately 375 feet to the point of beginning; thence continuing said line 230 feet; thence changing direction to bearing North 70 degrees West a distance of 290 feet; thence Southeasterly to the point of beginning, all distances being more or less. Said parcel lying adjacent to the property of James N. Nelson as described in Book 817, Page 426, Office of Probate Judge, Calhoun County, Alabama.

PARCEL III

Lots 1 thru 11, inclusive as shown on the Map of J. O. Bennett's Subdivision situated in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of

Section 26; NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 35, Township 16, Range 7, Calhoun County, Alabama, as recorded in the Office of Probate Judge of Calhoun County, Alabama, in Plat Book G, Page 33.

PARCEL IV

Lot 23, in Block 2, according to the Plat or Map of the Howle Subdivision as recorded in Plat Book K, at Page 9, Probate Office, Calhoun County, Alabama.

PARCEL V

Lots 3 and 4 in Block B, according to the Plat or Map of the Howle (Second Addition) Subdivision, as recorded in Plat Book O, at Page 21, Probate Office, Calhoun County, Alabama.

PARCEL VI

Beginning at an iron stob at the Northeast Corner of Dewey Miller Lots, and the Southwest intersection of Hill Avenue and Hickory Street; thence West along the South Side of Hickory Street One Hundred Sixty Eight (168) feet to an iron stob; thence in a Southeasterly direction one hundred twenty two (122) feet; thence East One Hundred Ten (110) feet; thence North One Hundred Fourteen (114) feet to the point of beginning. Being a parcel of that tract or lost sold to Dewey Miller by S. E. Boozer and his wife Sarah Foster Boozer, recorded in the Probate Office of Calhoun County, State of Alabama, in Book 552, Page 206, subject to the following easements, to-wit: Southern Natural Gas Corporation; Southern Natural Gas Company for pipe line rights of Plantation Pipe Line Company for Pipe Line; All public roads and highways crossing said land; Southern Bell Telephone & Telegraph Company, Inc., Alabama Power Company; Southern Natural Gas Company; Gulf Refining Company.

PARCEL VII

Lot 2, Block A, according to the Plat or Map of the Second Addition of Howle Subdivision, as recorded in Plat Book O, at Page 21, Probate Office, Calhoun County, Alabama.

SECTION 2: This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:42 A.M.

Act No. 678

H. 892—Merrill, Stewart, Burgess
AN ACT

To alter, rearrange and extend the boundaries and corporate limits of the City of Oxford, Calhoun County, Alabama, so as to annex certain territory to the City.

Be It Enacted by the Legislature of Alabama:

SECTION 1. The boundaries and corporate limits of the City of Oxford, Calhoun County, Alabama, are hereby altered, rearranged and extended so as to include within the corporate limits of the City the following described territory in addition to the area now embraced within such boundaries and corporate limits, to-wit:

All the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 3, Township 17 South, Range 8 East, lying East of the public road leading from Oxford-Able Road to the McIntosh Road; all the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ lying East of the public road from the Oxford-Able to the McIntosh Road; all the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ lying North of the McIntosh Road; all the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$; all the East Half of the NE $\frac{1}{4}$ lying North of the McIntosh Road and West of the Public Road leading from the Oxford-Able Road to the McIntosh Road; All of the above described property being in Section 3, Township 17 South, Range 8 East, Calhoun County, Alabama less and except a parcel of property more particularly described as follows: Beginning at a point on the North Section line 140 feet East of the Northwest corner of the Northwest Quarter of the Northeast Quarter of Section 3, Township 17 South, Range 8 East in Calhoun County, Alabama; thence West along the North section line a distance of 560 feet to a point; thence at an angle to the left of 90 degrees in a Southerly direction 565 feet to a point; thence Northeasterly and turning an angle to the left of 100 degrees a distance of 285 feet to a point; thence continuing Northeasterly and turning an angle to the left of 25 degrees 30 minutes a distance of 68 feet; thence continuing Northeasterly and turning an angle to the left of 19 degrees 40 minutes a distance of 208.7 feet to a point; thence in a Northeasterly direction 313.3 feet to the point of beginning.

SECTION 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:43 A.M.

Act No. 679

H. 980—Grey (D)

AN ACT

To amend Section 1 of Act No. 47, H. 46, Second Special Session 1956 (Acts 1956, p. 339), (codified at Section 125 (91), Title 13, Code of

Alabama 1940, Recompiled 1958), which provides a law enforcement fund for the use of the circuit judge and circuit solicitor of the twenty-fourth judicial circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 47, H. 46, Second Special Session 1956 (Acts 1956, p. 339), is amended to read as follows:

"Section 1. All Circuit Solicitors' fees hereafter imposed and collected by the Circuit Court in the Twenty-fourth Judicial Circuit of Alabama under the provisions of Section 85 of Title 11, 1940 Code of Alabama, as last amended, shall be periodically deposited by the Clerk, or other proper custodian of funds so taxed in said Court, in any bank in the county where the fees are imposed, provided that such bank be an approved depository of the public funds of such county, to be used and expended as provided in Section 2 hereof."

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 11:44 A.M.

Act No. 680

H. 989—Lang

AN ACT

To fix the compensation of bailiffs of courts in all counties having populations of not less than 18,500 nor more than 20,500.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in counties having populations of not less than 18,500 nor more than 20,500 according to the last or any subsequent federal decennial census.

Section 2. In all counties bailiffs actually serving in court shall each receive ten dollars a day for every day he serves, which shall be paid out of the county treasury on the certificate of the presiding judge showing that the bailiff's service was necessary.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming an act.

Approved August 31, 1971.

Time: 11:45 A.M.

Act No. 681

H. 1106—Adams, Brassell

AN ACT

To amend the title and Section 1 of Act No. 50, H. 80, Special Session 1970 (Acts 1970, p. 2673), which provides for the salary of the chief deputy sheriff of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 50, H. 80, Special Session 1970 (Acts 1970, p. 2673), is amended to read as follows:

“An Act Relating to all counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census; providing for the salary of the chief deputy sheriff in such counties.”

Section 2. Section 1 of said Act No. 50, H. 80, is amended to read as follows:

“Section 1. In all counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census, the sheriff shall fix the annual salary of the chief deputy sheriff, subject to the approval of the county governing body, at a sum not less than \$6,500 per annum. Such salary shall be paid in equal monthly installments out of general funds in the county treasury not otherwise appropriated.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:46 A.M.

Act No. 682

H. 1107—Adams, Brassell

AN ACT

To amend the title and Section 1 of Act No. 495, S. 460, Regular Session 1963 (Acts 1963, p. 1060), which provides for the licensing and regulation of hunting on certain privately owned hunting preserves; prescribes fees for such licenses, collection and distribution thereof, and prescribes penalties for violations, in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 495, S. 460, Regular Session 1963 (Acts 1963, p. 1060), is amended to read as follows:

"An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 42,000 nor more than 49,500 according to the 1970 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act."

Section 2. Section 1 of said Act No. 495, S. 460, is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 42,000 nor more than 49,500 according to the 1970 or any subsequent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:47 A.M.

Act No. 683

H. 1108—Brassell, Adams

AN ACT

To amend the title and Section 1 of Act No. 60, S. 125, Special Session 1964 (Acts 1964, p. 83), which provides for contingent funds and regulates the use thereof, in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 60, S. 125, Special Session 1964 (Acts 1964, p. 83), is amended to read as follows:

"An Act To provide contingent funds for all counties having populations of not less than 42,000 nor more than 49,500 and regulating the use of such funds."

Section 2. Section 1 of said Act No. 60, S. 125, is amended to read as follows:

"Section 1. The Court of County Commissioners, Boards of Revenue or other like governing body in any county having a population of not less than 42,000 or more than 49,500, according to the 1970 federal decennial census, is hereby authorized and empowered to appropriate out of any moneys in the county

treasury not otherwise appropriated, and to expend not exceeding the sum of Five Thousand Dollars (\$5,000.00) per annum for any purposes, not otherwise provided for by law, that in their judgment are worthy and for the best interest of the county, the fund hereby authorized to be known as the "Contingent Fund." Provided, however, the expenditure herein provided shall first be authorized by the governing body of the county in a resolution spread upon its minutes."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:48 A.M.

Act No. 684

H. 1109—Adams, Brassell

AN ACT

To amend the title and Section 1 of Act No. 251, H. 701, Regular Session 1969 (Acts 1969, p. 583), which abolishes the public highway and traffic funds in the county treasuries and provides for the transfer of such monies to the general fund and for the deposit of certain other monies in such general fund, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 251, H. 701, Regular Session 1969 (Acts 1969, p. 583), is amended to read as follows:

"An Act To abolish the public highway and traffic fund in the county treasuries of all counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census; and to provide for the transfer of any monies therein to the general fund in each of such counties and for the deposit in such general fund of such counties of all monies dedicated to construction, maintenance and repair of roads and bridges or to traffic control, hereafter accruing to such counties."

Section 2. Section 1 of said Act No. 251, H. 701, is amended to read as follows:

"Section 1. In all counties having populations of not less than 42,000 nor more than 49,500 the public highway and traffic fund in the county treasury is hereby abolished. All monies on deposit in such fund when this Act becomes law shall immediately be transferred to the general fund of each of such counties; and all monies thereafter accruing to such counties which are dedicated to construction, maintenance and repair

of roads and bridges and traffic control shall be paid into the general fund of each of such counties. All such monies shall, however, continue to be used for the purposes for which they are dedicated."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:49 A.M.

Act No. 685

H. 1110—Brassell, Adams

AN ACT

To amend the title and Section 1 of Act No. 119, H. 348, Regular Session 1967 (Acts 1967, p. 455), which regulates the use of voting machines where previously or subsequently authorized, establishes voting centers, provides for election officers at such centers, and prescribes the duties and fixes the compensation for such officers in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 119, H. 348, Regular Session 1967 (Acts 1967, p. 455), is amended to read as follows:

"An Act To apply only in counties in the state having a population of not less than 42,000 nor more than 49,500 inhabitants, according to the last or any subsequent federal decennial census, wherein the use of voting machines has been, or shall be, authorized; to provide that the county governing body in regulating and providing for the use of voting machines in all elections in the county may, in the manner herein prescribed, divide any voting precinct of the county into territories, designate in each territory a voting center at which the qualified electors of the territory so designated may vote, and prescribe the number of voting machines to be maintained at each voting center; and to provide election officers for each voting center designated by the county governing body, prescribe the duties of such election officers, and fix their compensation."

Section 2. Section 1 of said Act No. 119, H. 348, is amended to read as follows:

"Section 1. This Act shall apply only in counties of the state having a population of not less than 42,000 nor more than 49,500 inhabitants according to the last or any subsequent federal decennial census. Unless a contrary intent appears from

the context, as used herein, the word "county" means any county to which this Act applies; the phrase "county governing body" means the court of county commissioners, board of revenue, or other like governing body of any such county; the word "election" means any general, special, or primary election held in the county, including a district, municipal, county, state or federal election; and the term "voting center" means any place in the county which the county governing body designates as a place where a voting machine or voting machines will be maintained or operated at elections."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:50 A.M.

Act No. 686

H. 1111—Brassell, Adams

AN ACT

To amend the title and Section 1 of Act No. 341, H. 804, Regular Session 1969 (Acts 1969, p. 713), which provides further for the compensation of certain bailiffs in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 341, H. 804, Regular Session 1969 (Acts 1969, p. 713), is amended to read as follows:

"An Act Relating to counties having populations of not less than 42,000 nor more than 49,500; to provide further for the compensation of certain bailiffs in such counties."

Section 2. Section 1 of said Act No. 341, H. 804, is amended to read as follows:

"Section 1. The judge of the circuit court of any county having a population of not less than 42,000 nor more than 49,500 according to the most recent federal decennial census shall fix the salary of any bailiff appointed by him at a sum not to exceed \$350 per month. Such salary shall be paid monthly out of the general fund of the county on the order of such judge."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:55 A.M.

Act No. 687

H. 1112—Adams, Brassell

AN ACT

To amend the title and Section 1 of Act No. 503, H. 905, Regular Session 1961 (Acts 1961, p. 602), which regulates the compensation of deputy sheriffs in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 503, H. 905, Regular Session 1961 (Acts 1961, p. 602), is amended to read as follows:

"An Act To regulate the compensation of deputies to the sheriff in all counties having populations of not less than 42,000 nor more than 49,500 according to the 1970 or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 503, H. 905, is amended to read as follows:

"Section 1. In all counties of the State of Alabama having populations of not less than 42,000 nor more than 49,500 inhabitants, according to the 1970 or any subsequent federal decennial census, the court of county commissioners, board of revenue or like county governing body shall pay to the chief deputy sheriff from the county treasury a salary of not less than three hundred fifty nor more than four hundred dollars per month."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:56 A.M.

Act No. 688

H. 1113—Adams, Brassell

AN ACT

To amend the title and Section 1 of Act No. 110, S. 331, Regular Session 1965 (Acts 1965, p. 171), which further regulates the number and compensation of sheriff's deputies, in certain counties on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 110, S. 331, Regular Session 1965 (Acts 1965, p. 171), is amended to read as follows:

"An Act Relating to all counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census, further regulating the number and compensation of deputies of the sheriff."

Section 2. Section 1 of said Act No. 110, S. 331, is amended to read as follows:

“Section 1. The sheriff of all counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census, may appoint a chief deputy and four additional deputies which shall be the total number of deputies to which the sheriff is entitled. The salary of the chief deputy shall be fixed by the county governing body and shall be not less than \$4,800 and not more than \$6,500 annually. The annual salaries of the four additional deputies shall be fixed by the county governing body and shall be not less than \$3,600 nor more than \$5,300 each. The salary of the chief deputy and three additional deputies shall be paid out of general funds in the county treasury not otherwise appropriated. The salary of the deputy appointed pursuant to Act No. 47, H. 121 Regular Session 1953 (Acts 1953, p. 59) shall be paid from gasoline tax funds, or the road and bridge funds, as the county governing body may direct. Salaries of all deputies shall be paid in twelve equal monthly installments.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:57 A.M.

Act No. 689

H. 1114—Brassell, Adams

AN ACT

To amend the title and Section 1 of Act No. 335, H. 700, Regular Session 1969 (Acts 1969, p. 707), which provides further for expense allowances to the members and clerk of the governing bodies of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 335, H. 700, Regular Session 1969 (Acts 1969, p. 707), is amended to read as follows:

“An Act Relating to counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census; to provide further for expense allowances to the members and clerk of the county governing bodies in such counties.”

Section 2. Section 1 of said Act No. 335, H. 700, is amended to read as follows:

“Section 1. The members, including the chairman, of the court of county commissioners, board of revenue or other like

governing body of all counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census, shall each be entitled to receive from the county treasury the sum of two hundred and fifty dollars (\$250) per month for expenses incurred in the performance of their official duties within any such county. Such expense allowances shall be in addition to any salary or other compensation due them; but it shall be in lieu of any allowances heretofore provided them by law for their ordinary and necessary expenses. The clerks of such governing bodies shall each be entitled to receive from such county treasuries such an expense allowance of two hundred dollars (\$200) per month for necessary duties within any such county. Such allowances shall be paid at the end of each month on warrants, approved by such governing bodies, on any funds in the county treasury not otherwise appropriated or out of such funds as the county governing body directs."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:57 A.M.

Act No. 690

H. 1115—Brassell, Adams

AN ACT

To amend the title and Section 1 of Act No. 252, H. 702, Regular Session 1969 (Acts 1969, p. 584), which further regulates the number and compensation of deputies and other employees of the sheriffs of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 252, H. 702, Regular Session 1969 (Acts 1969, p. 584), is amended to read as follows:

"An Act Regulating to all counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census; further regulating the number and compensation of deputies and other employees of the sheriffs in such counties."

Section 2. Section 1 of said Act No. 252, H. 702, is amended to read as follows:

"Section 1. The sheriffs of all counties having populations of not less than 42,000 nor more than 49,500, according to the most recent federal decennial census are each hereby authorized to employ two deputy sheriffs in addition to the number of

deputies authorized by law when this Act becomes effective. Such additional deputies shall, each, be paid a salary of four hundred fifty dollars (\$450) per month out of such fund or funds in the county treasury as the county governing body may direct; and such salaries shall be paid at the same time and in the same manner that other deputies sheriff of such counties are paid.

Such sheriffs are also authorized to employ a head jailor in addition to the jailors authorized by law when this Act becomes effective. Such head jailer shall be paid a salary of three hundred fifty dollars (\$350) per month out of such fund in the county treasury as the county governing body directs."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 11:58 A.M.

Act No. 691

H. 1116—Adams, Brassell

AN ACT

To amend the title and Section 1 of Act No. 336, H. 703, Regular Session 1969 (Acts 1969, p. 708), which provides an expense allowance for members of the governing body of certain cities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 336, H. 703, Regular Session 1969 (Acts 1969, p. 708), is amended to read as follows:

"An Act Relating to cities having populations of not less than 24,000 nor more than 26,000; providing an expense allowance for members of the governing body of such cities."

Section 2. Section 1 of said Act No. 336, H. 703, is amended to read as follows:

"Section 1. In all cities in this state having populations of not less than 24,000 nor more than 26,000 according to the most recent federal decennial census, the mayor shall be entitled to an expense allowance of \$300 per month; and the members of the city commission shall each be entitled to an expense allowance of \$250 per month. Such allowances shall be for expenses incurred in the performance of such officers' regular duties within any such city. Such allowances shall be paid each month out of the city treasury from funds not otherwise appropriated and shall be in addition to all other allowances heretofore provided."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 12:00 noon

Act No. 692

H. 1238—Coshatt

AN ACT

To repeal Act No. 516, H. 1029, approved August 21, 1969, entitled, "An Act relating to counties having a population of not less than 24,800 nor more than 25,400 according to the most recent Federal Decennial Census; to authorize the county governing body of any such county to appropriate a contingent fund out of county funds and to use such fund for purposes not otherwise provided by law." (Acts of Alabama, Regular Session, 1969, p. 992)

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 516, H. 1029, approved August 21, 1969, entitled, "An Act relating to counties having a population of not less than 24,800 nor more than 25,400 according to the most recent Federal Decennial Census; to authorize the county governing body of any such county to appropriate a contingent fund out of county funds and to use such fund for purposes not otherwise provided by law," (Act of Alabama, Regular Session, 1969, p. 992) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:01 P.M.

Act No. 693

H. 1239—Coshatt

AN ACT

To repeal Act No. 621, H. 1201, approved August 26, 1965, entitled, "An Act to apply only in counties having populations of not less than 24,800 nor more than 25,400, according to the most recent federal decennial census; regulating the mileage allowance of members of the court of county commissioners, board of revenue, or other like governing body of such counties." (Acts of Alabama, 1965, p. 1135).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 621, H. 1201, approved August 26, 1965, entitled, "An Act to apply only in counties having populations of not less than 24,800 nor more than 25,400, according

to the most recent federal decennial census; regulating the mileage allowance of members of the court of county commissioners, board of revenue, or other like governing body of such counties," (Acts of Alabama, 1965, p. 1135) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:02 P.M.

Act No. 694

H. 1241—Coshatt, Reid (R)

AN ACT

To amend Section 4 of Act No. 125, H. 112, First Special Session 1965 (Acts of Alabama, 1965 First Special Session, P. 177), which Act provided for the position of clerk-secretary to the circuit solicitor of the 30th Judicial Circuit, so as to increase the salary of said clerk-secretary.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 4 of Act No. 125, H. 112, 1965 First Special Session (Acts of Alabama, 1965 First Special Session, p. 177), is hereby amended to read as follows:

"Section 4. The said clerk-secretary to the circuit solicitor of the 30th Judicial Circuit of Alabama shall receive a salary to be fixed and determined by the court of county commissioners or other like governing body of the county, said salary not to be less than Three Thousand Six Hundred (\$3,600.00) Dollars per annum and not more than Four Thousand Eight Hundred (\$4,800.00) Dollars per annum, which shall be payable in monthly installments out of the general fund of St. Clair County, on certificate issued by the solicitor in favor of such clerk-secretary."

Section 2. The provisions of this Act shall be retroactive to June 1, 1971, and the Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 12:03 P.M.

Act No. 695

H. 1278—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 141, H. 142, Special Session 1969 (Acts 1969, p. 206), which provides for the traveling ex-

penses of the sheriff and constable of the county court for serving summons or other mesne process, except subpoenas for witnesses, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 141, H. 142, Special Session 1969 (Acts 1969, p. 206), is amended to read as follows:

"An Act To apply only in counties having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census; providing for the traveling expense of the Sheriff and the Constable of the County Court, for serving summons or other mesne process, except subpoenas for witnesses."

Section 2. Section 1 of said Act No. 141, H. 142, is amended to read as follows:

"Section 1. In all counties having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census, the travel expense of the Sheriff and the Constable of County Court, for serving Summons or other mesne process, except subpoenas for witnesses, shall be one (\$1.00) Dollar, which travel expense shall be in lieu of the allowance of Ten Cents per mile for each mile traveled in serving same as provided in Title 11, Section 34, Code of Alabama, 1940, as amended. Traveling expense shall be allowed only for one trip in serving any Summons or other mesne process in all cases filed regardless of the amount sued for, and the mileage fee of Ten Cents per mile shall no longer be charged, demanded or received for such service."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 12:04 P.M.

Act No. 696

H. 1279—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 373, H. 930, Regular Session 1969 (Acts 1969, p. 741), which provides for taxing, collecting, and remitting of circuit court costs by the town or cities located in certain counties classified on a population basis when a case has been appealed from certain courts or certain disposition has been made of the case.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 373, H. 930, Regular Session 1969 (Acts 1969, p. 741), is amended to read as follows:

"An Act To apply only in counties having a population of not less than 90,000 nor more than 100,000, according to the most recent federal decennial census; providing for taxing, collecting and remitting circuit court costs by the town or cities located therein, when a case has been appealed from a City Recorder's Court, Mayor's Court, Police Court or any municipal court to the Circuit court in such counties and the appeal is dismissed and case remanded, and when a town or city permits a defendant to pay a fine and cost to the town or city after transcript on appeal is filed in Circuit Court."

Section 2. Section 1 of said Act No. 373, H. 930, is amended to read as follows:

"Section 1. In all counties having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census, each City or Town located therein is required is cases appealed from a City Recorder's Court, Mayor's Court, Police Court or any municipal court to the Circuit Court, to tax and collect the amount of \$13.50 as Circuit Court cost when and if any such city or town allows or permits any defendant to pay any amount of fine and cost to the city or town after transcript of appeal has been filed in Circuit Court and before the date the case is set for trial in Circuit Court. The city or town is required to remit said amount to the clerk of Circuit Court within 60 days from date of collection."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 12:05 P.M.

Act No. 697

H. 1280—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 367, H. 915, Regular Session 1969 (Acts 1969, p. 737), which fixes the compensation of officers of the circuit court in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 367, H. 915, Regular Session 1969 (Acts 1969, p. 737), is amended to read as follows:

"An Act Relating to counties having a population of not less than 90,000 nor more than 100,000; fixing the compensation of the officers of the circuit court in such counties."

Section 2. Section 1 of said Act No. 367, H. 915, is amended to read as follows:

"Section 1. In all counties having a population of not less than 90,000 nor more than 100,000; according to the most recent federal decennial census, the following officers of the circuit court in such counties shall receive compensation as follows:

(a) for each circuit judge, a salary of \$4,100 per annum and an expense allowance of \$900 per annum to be paid from the general funds of the county as a supplement to the state salary.

(b) for the district attorney, a salary supplement payable from the county treasury, which will cause his total annual compensation to be \$1,000 less than the total annual compensation paid to the circuit judges in such counties which compensation includes state salary, local supplement and expense allowances."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 12:05 P.M.

Act No. 698

H. 1281—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 364, H. 912, Regular Session 1969 (Acts 1969, p. 734), which provides for expense allowances for certain officers of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 364, H. 912, Regular Session 1969 (Acts 1969, p. 734), is amended to read as follows:

"An Act Relating to counties having a population of not less than 90,000 nor more than 100,000; providing expense allowances for certain officers in such counties."

Section 2. Section 1 of said Act No. 364, H. 912, is amended to read as follows:

"Section 1. In all counties having a population of not less than 90,000 nor more than 100,000, according to the most recent federal decennial census, the tax collector and tax assessor shall each receive an expense allowance of \$1,500 per annum to be paid out of the general funds of the county in equal monthly installments beginning on the first Monday after the second Tuesday in January 1971, until the expiration of the current term of each officer."

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 12:07 P.M.

Act No. 699

H. 1282—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 366, H. 914, Regular Session 1969 (Acts 1969, p. 736), which increases the expense allowance of the county judges in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 366, H. 914, Regular Session 1969 (Acts 1969, p. 736), is amended to read as follows:

“An Act Relating to counties having a population of not less than 90,000 nor more than 100,000; increasing the expense allowance of the county judges in such counties.”

Section 2. Section 1 of said Act No. 366, H. 914, is amended to read as follows:

“Section 1. In all counties having a population of not less than 90,000 nor more than 100,000, according to the most recent federal decennial census, from the effective date of this act, until the first Monday after the second Tuesday in January, 1971, each county judge in such counties shall receive an expense allowance of \$1,500, in addition to any allowances currently being paid to such judges. From the first Monday after the second Tuesday in January, 1971, the expense allowance will be set at the amount which will make his total compensation equal to \$1,000 per annum less than the total compensation of the circuit judges in such counties, which compensation includes state salary, local supplement and expense allowances. Such expense allowance shall be paid in equal monthly installments from the general funds of the county, and shall be paid beginning with the month in which this act is effective, until the expiration of the current term of each county judge.”

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 12:08 P.M.

Act No. 700

H. 1283—Carnes, Waldrop, Wynot

AN ACT

To repeal Act No. 190, H. 389, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 230), as last amended, entitled, “An Act

Relating to counties having a population of not less than 96,000 nor more than 106,000 inhabitants, according to the 1960 or any subsequent federal decennial census; regulating the compensation of members and clerks of jury commissions in such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 190, H. 389, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 230), as last amended, entitled, "An Act Relating to counties having a population of not less than 96,000 nor more than 106,000 inhabitants, according to the 1960 or any subsequent federal decennial census; regulating the compensation of members and clerks of jury commissions in such counties," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:09 P.M.

Act No. 701

H. 1284—Carnes, Waldrop, Wynot

AN ACT

To repeal Act No. 412, H. 878, Regular Session 1961 (Acts 1961, p. 429), approved August 7, 1961, as last amended, "An Act To regulate further the compensation and allowances of certain officers of counties having a population of not less than 96,000 nor more than 106,000, according to the last or any subsequent federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 412, H. 878, Regular Session 1961 (Acts 1961, p. 429), approved August 7, 1961, as last amended, "An Act To regulate further the compensation and allowances of certain officers of counties having a population of not less than 96,000 nor more than 106,000, according to the last or any subsequent federal decennial census," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 13, 1971.

Time: 12:10 P.M.

Act No. 702

H. 1285—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 158, H. 399, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 206), entitled, "An Act to fix the compensation

of the coroner in any county in Alabama having a population of not less than 96,000 nor more than 106,000 according to the last or any subsequent decennial federal census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 158, H. 399, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 206) entitled, "An Act to fix the compensation of the coroner in any county in Alabama having a population of not less than 96,000 nor more than 106,000 according to the last or any subsequent decennial federal census," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:11 P.M.

Act No. 703

H. 1286—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 62, H. 102, approved July 2, 1962, Special Session 1962 (Acts 1962, p. 81), entitled, "An Act to amend Section 1 of Act No. 158, H. 399, approved August 1, 1961 (Acts of Alabama 1961, p. 206) which act regulates the compensation of coroners in counties of not less than 96,000 nor more than 106,000 population, so as to authorize the payment of an expense allowance to the coroner in any such county.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 62, H. 102, approved July 2, 1962, Special Session 1962 (Acts 1962, p. 81) entitled, "An Act to amend Section 1 of Act No. 158, H. 399, approved August 1, 1961 (Acts of Alabama 1961, p. 206) which act regulates the compensation of coroners in counties of not less than 96,000 nor more than 106,000 population, so as to authorize the payment of an expense allowance to the coroner in any such county," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:12 P.M.

Act No. 704

H. 1287—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 163, H. 409, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 209) entitled, "An Act to regulate further

the county courts of all counties having a population of not less than 96,000 nor more than 106,000, according to the last or any subsequent federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 163, H. 409, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 209) entitled, "An Act to regulate further the county courts of all counties having a population of not less than 96,000 nor more than 106,000, according to the last or any subsequent federal decennial census," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:13 P.M.

Act No. 705

H. 1288—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 192, H. 391, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 231) entitled, "An Act to provide for the compensation of special bailiffs in the circuit courts of all counties having a population of not less than 96,000 nor more than 106,000, according to the most recent federal decennial census."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 192, H. 391, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 231) entitled, "An Act to provide for the compensation of special bailiffs in the circuit courts of all counties having a population of not less than 96,000 nor more than 106,000, according to the most recent federal decennial census," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:14 P.M.

Act No. 706

H. 1289—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 432, H. 752, approved September 2, 1963, Regular Session 1963 (Acts 1963, p. 962) entitled, "An Act to amend Section 2 of Act No. 412, H. 878, Regular Session 1961 (Acts 1961, p. 429), relating to certain county officers in counties classified according to population.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 432, H. 752, approved September 2, 1963, Regular Session 1963 (Acts 1963, p. 962) entitled, "An Act to amend Section 2 of Act No. 412, H. 878, Regular Session 1961 (Acts 1961, p. 429), relating to certain county officers in counties classified according to population," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:15 P.M.

Act No. 707

H. 1290—Carnes, Waldrop, Wynot
AN ACT

To repeal Act No. 426, H. 466, approved September 2, 1963, Regular Session 1963 (Acts 1963, p. 945), entitled, "An Act Relating to counties having populations of not less than 96,000 nor more than 106,000; providing additional expense allowances for certain county officers, payable from the general funds of the county."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 426, H. 466, approved September 2, 1963, Regular Session 1963 (Acts 1963, p. 945), entitled, "An Act Relating to counties having populations of not less than 96,000 nor more than 106,000; providing additional expense allowances for certain county officers, payable from the general funds of the county," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:16 P.M.

Act No. 708

H. 1291—Carnes, Waldrop, Wynot
AN ACT

To repeal Act No. 310, H. 554, approved August 28, 1963, Regular Session 1963 (Acts 1963, p. 790), entitled, "An Act Relating to counties having populations of not less than 96,000 nor more than 106,000; regulating and providing for payment of expense allowances of constables serving the county court in such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 310, H. 554, approved August 28, 1963, Regular Session 1963 (Acts 1963, p. 790), entitled, "An Act

Relating to counties having populations of not less than 96,000 nor more than 106,000; regulating and providing for payment of expense allowances of constables serving the county court in such counties," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:17 P.M.

Act No. 709

H. 1292—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 146, S. 233, approved July 16, 1965, Regular Session 1965 (Acts 1965, p. 213) entitled, "An Act to apply only in counties having populations of not less than 96,000 nor more than 106,000; regulating the compensation of bailiffs serving the circuit courts of such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 146, S. 233, approved July 16, 1965, Regular Session 1965 (Acts 1965, p. 213) entitled, "An Act to apply only in counties having populations of not less than 96,000 nor more than 106,000; regulating the compensation of bailiffs serving the circuit courts of such counties," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:18 P.M.

Act No. 710

H. 1293—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 167, H. 413, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 211) entitled, "An Act to provide for the appointment and tenure and number, and fixing the compensation, of bailiffs for circuit courts of Alabama in circuits having two circuit judges composed of one county having populations of not less than 96,000 people nor more than 116,000 people according to the last or any subsequent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 167, H. 413, approved August 1, 1961, Regular Session 1961 (Acts 1961, p. 211) entitled, "An Act to

provide for the appointment and tenure and number, and fixing the compensation, of bailiffs for circuit courts of Alabama in circuits having two circuit judges composed of one county having populations of not less than 96,000 people nor more than 116,000 people according to the last or any subsequent federal decennial census," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:19 P.M.

Act No. 711

H. 1294—Carnes, Waldrop, Wynot

AN ACT

To repeal Act No. 365, H. 913, approved August 12, 1969, Regular Session 1969 (Acts 1969, p. 735), entitled, "An Act Relating to counties having a population of not less than 96,000 nor more than 106,000; fixing the compensation of certain officers in such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 365, H. 913, approved August 12, 1969, Regular Session 1969 (Acts 1969, p. 735), entitled, "An Act Relating to counties having a population of not less than 96,000 nor more than 106,000; fixing the compensation of certain officers in such counties," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:20 P.M.

Act No. 712

H. 1295—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 451, S. 436, approved September 4, 1963, Regular Session 1963 (Acts 1963, p. 983) entitled, "An Act relating to judicial circuits composed of one county having a population of not less than 96,000 nor more than 108,000; providing a supplemental salary for the judges of such circuits subject to certain contingencies."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 451, S. 436, approved September 4, 1963, Regular Session 1963 (Acts 1963, p. 983) entitled, "An Act relating to judicial circuits composed of one county having a population of not less than 96,000 nor more than 108,000;

providing a supplemental salary for the judges of such circuits subject to certain contingencies," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:21 P.M.

Act No. 713

H. 1296—Carnes, Waldrop, Wynot
AN ACT

To repeal Act No. 706, H. 1117, approved September 1, 1965, Regular Session 1965 (Acts 1965, p. 1307), as last amended, entitled, "An Act Relating to counties having populations of not less than 96,000 nor more than 106,000, according to the most recent federal decennial census; further regulating the compensation and allowances of certain county officers."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 706, H. 1117, approved September 1, 1965, Regular Session 1965 (Acts 1965, p. 1307), as last amended, entitled, "An Act Relating to counties having populations of not less than 96,000 nor more than 106,000, according to the most recent federal decennial census; further regulating the compensation and allowances of certain county officers," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:22 P.M.

Act No. 714

H. 1297—Wynot, Carnes, Waldrop
AN ACT

To repeal Act No. 151, S. 234, approved July 20, 1965, Regular Session 1965 (Acts 1965, p. 216) entitled, "An Act to apply in all counties having populations of not less than 96,000 nor more than 106,000; fixing the term of office of the county license inspector."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 151, S. 234, approved July 20, 1965, Regular Session 1965 (Acts 1965, p. 216) entitled, "An Act to apply in all counties having populations of not less than 96,000 nor more than 106,000; fixing the term of office of the county license inspector," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971
Approved August 31, 1971.

Time: 12:23 P.M.

Act No. 715

H. 1298—Wynot, Carnes, Waldrop

AN ACT

To repeal Act No. 157, S. 276, approved July 23, 1965, Regular Session 1965 (Acts 1965, p. 227) entitled, "An Act further regulating commercial fishing in public waters in all counties having populations of not less than 96,000 nor more than 106,000, so as to prohibit the use of gill or trammel nets or hoop or fyke nets in commercial fishing operations in such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 157, S. 276, approved July 23, 1965, Regular Session 1965 (Acts 1965, p. 277) entitled, "An Act further regulating commercial fishing in public waters in all counties having populations of not less than 96,000 nor more than 106,000, so as to prohibit the use of gill or trammel nets or hoop or fyke nets in commercial fishing operations in such counties," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 2:24 P.M.

Act No. 716

H. 1355—Brassell

AN ACT

To amend the title and Section 1 of Act No. 255, H. 766, Regular Session 1969 (Acts 1969, p. 587) which relates to the board of directors and compensation thereof of certain municipal corporations in certain municipalities classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 255, H. 766, Regular Session 1969 (Acts 1969, p. 587) is amended to read as follows:

"An Act Relating to the compensation of members of boards of directors of certain municipal corporations in cities having populations of not less than 23,000 nor more than 27,000, according to the most recent federal decennial census; amending fur-

ther Section 3 of Act No. 175, S. 280, Regular Session of 1951 (Acts 1951, p. 416)."

Section 2. Section 1 of said Act No. 225, H. 766, is amended to read as follows:

"Section 1. Section 3 of Act No. 175, S. 280, Regular Session 1951 (Acts 1951, p. 416), as amended, is hereby amended further to read as follows:

'Section 3. Each corporation formed or the certificate of incorporation of which is amended under this act shall have a board of directors which shall constitute the governing body of the corporation, which board shall consist of three members. No fee shall be paid to any director for services rendered with respect to a sanitary sewer system. In any instance where the system or systems owned and operated by the corporation or any one or more of a water system, a gas system, and an electric system, the chairman of the board of directors may, at the discretion of the board of directors, be paid a director's fee in an amount not exceeding \$15.00 each month for one such system and \$10.00 each month for each additional system, and each member of the board of directors other than the chairman may be paid a director's fee in an amount not exceeding \$10.00 each month for each such system; provided, that where the municipality with respect to which the corporation was primarily organized has less than 5,000 inhabitants according to the last or any subsequent official census, the maximum total amount of director's fees which may be paid to the chairman of its board of directors shall not exceed \$25.00 during any month and the maximum total amount of director's fees which may be paid to any other member of the board of directors shall not exceed \$20.00 during any month. In all cities having populations of not less than 6,500 nor more than 8,500 according to the most recent federal decennial census, the members of the board of directors, including the chairman, may each be paid a director's fee in an amount not exceeding \$25.00 each month. In all cities having populations of not less than 23,000 nor more than 27,000, according to the most recent federal decennial census, the chairman of the board of directors, at the discretion of such board, may be paid a director's fee in an amount not exceeding \$125 each month, and each member of the board, other than the chairman, may be paid a director's fee in an amount not exceeding \$100 each month. All members of the board of directors of any corporation organized under the provisions of this act shall be reimbursed for actual expenses incurred in and about the performance of their duties hereunder. Any officer of the municipality shall be eligible for appointment and may serve as a member of the board of directors for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first, but shall not receive a fee for his serv-

ices; provided, however, that at no time shall the board consist of more than two officers of the municipality. The directors of the corporation shall be elected by the governing body of the municipality, and they shall be so elected that they shall hold office for staggered terms. The first term of office of one director shall be two years, of another director shall be four years, and of a third director shall be six years, as shall be designated at the time of their election, and thereafter the term of office of each director shall be six years; provided, however, that the governing body of any municipality which has heretofore or hereafter authorized the creation of a corporation as provided herein may, at its option, increase the board of directors from three to five members to serve according to all the conditions and terms set forth herein. In the event the governing body elects to increase such board of directors from three to five members, one member added to the board shall be appointed for a term of four years and the remaining member for a term of six years and thereafter the term of each such director shall be six years; provided that at no time shall such board consist of more than three officers of the municipality; provided, further, that any officer of the municipality appointed to serve as a member of the board of directors shall serve for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first' "

Section 3. This Act shall become effective September 1, 1971.

Approved August 31, 1971.

Time: 12:26 P.M.

Act No. 717

H. 1511—Goodwin, Reynolds

AN ACT

To fix for the first time since 1957 the compensation to be paid out of the county treasury to certain county officers and officials in all counties having populations of not less than 48,500 nor more than 50,500, according to the most recent federal decennial census, to repeal conflicting laws, and to provide a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 48,500 nor more than 50,500, according to the most recent federal decennial census, the following county officers shall be compensated on a salary basis as follows:

(A) The probate judge shall be entitled to a salary of \$13,250.00 per annum.

(B) The tax assessor shall be entitled to a salary of \$11,250.00 per annum.

(C) The tax collector shall be entitled to a salary of \$11,250.00 per annum.

(D) The clerk of the circuit court shall be entitled to a salary of \$11,250.00 per annum.

(E) The register of the circuit court shall be entitled to a salary of \$8,850.00 per annum.

(F) The chairman of the court of county commissioners or other like governing body shall be entitled to a salary of \$11,250.00 per annum.

(G) The members of the board of education shall be entitled to \$25.00 for each days attendance at meetings of the board.

Section 2. The compensation provided such officers in this act shall be paid from the general funds of the county in the same manner now provided by law for payment of the compensation of such officers.

Section 3. All general special or local laws, or parts of such laws, which conflict with this act are repealed.

Section 4. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

Section 5. The provisions of this act shall become operative in any county to which the act applies only if the act, in its entirety is first approved by a majority of the qualified electors of the county who vote thereon at a referendum election held for such purpose. The election shall be held and conducted within 30 days after the passage of this act and approval by the Governor or its otherwise becoming law. Notice of the election shall be given by the judge of probate of the county, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

"Shall the provisions of Act No. ____ of the Legislature, approved the ____ day of _____ 1971, which adjust and fixes the salaries of certain county officers and officials for the first time since 1957 as listed below, be adopted in its entirety"?

(a) Probate Judge\$13,250.00 Annum

(b) Tax Assessor 11,250.00 Annum

- (c) Tax Collector 11,250.00 Annum
 (d) Clerk of Circuit Court 11,250.00 Annum
 (e) Register of Circuit Court 8,850.00 Annum
 (f) Chairman, County Commission 11,250.00 Annum
 (g) Members of Board of
 Education, Each 25.00 Per Meeting
- YES () NO ()

If a majority of the votes cast on the question are affirmative the provisions of this act shall be in full force and effect, pursuant to the effective date of this act. If a majority of the votes cast on the question are negative, then the provisions of this act shall have no further effect. The Judge of probate of the county shall certify the results of the election to the Secretary of State within 30 days after the returns have been canvassed.

Section 6. This act shall become effective for the purpose of holding the referendum election hereinabove provided for immediately upon its passage and approval by the Governor or its otherwise becoming law.

Section 7. Because of the fact that the salary adjustments provided herein are so modest and reasonable that no strain will be placed on the budgets of the counties covered by this bill, it is specifically provided that there shall not be one cent increase of any type whatsoever in taxes to support these adjustments, as no such tax increase will be necessary. Also, because of the fact that county offices in counties covered by this bill, have not received any cost of living salary adjustments whatsoever since 1957, resulting in grossly underpaid county officials for the past 14 years, and making it necessary for such county officials to have supplemental incomes in order to serve the people of the county, it is specifically provided that salaries hereinabove prescribed, if approved at said referendum election, shall become effective retroactively as of January 14, 1971.

Approved August 31, 1971.

Time: 12:27 P.M.

Act No. 718

H. 1513—Connell, Crawford

AN ACT

Relating to Houston County; to provide for the compensation of the board of equalization and fix the number of days they shall meet each year.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply only to Houston County, Alabama; the members of the board of equalization in Houston County shall serve for not more than 150 days in each taxable year, the exact working period to be fixed or approved by the department of revenue, and each member shall be paid at the rate of \$25.00 per diem. Said per diem shall be paid according to the provisions of Title 51, Section 95, Code of Alabama, 1940, as amended.

Section 2. The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or part of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 12:28 P.M.

Act No. 719

H. 1523—Carnes, Waldrop, Wynot

AN ACT

To repeal Act No. 561, H. 396, approved August 25, 1961, Regular Session 1961 (Acts 1961, p. 660), entitled, "An Act Providing further for the operation of the county board of equalization of each county having a population of not less than 96,000 nor more than 106,000, according to the last or any subsequent federal decennial census; further regulating the term of service, compensation, and expense allowance of the members of the board; making further provision in regard to the office space and office fixtures and supplies of the board; and providing for the employment of a secretary-appraiser by the board and other employees of the board."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 561, H. 396, approved August 25, 1961, Regular Session 1961 (Acts 1961, p. 660), entitled, "An Act Providing further for the operation of the county board of equalization of each county having a population of not less than 96,000 nor more than 106,000, according to the last or any subsequent federal decennial census; further regulating the term of service, compensation, and expense allowance of the members of the board; making further provision in regard to the office space and office fixtures and supplies of the board; and

providing for the employment of a secretary-appraiser by the board and other employees of the board," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:26 P.M.

Act No. 720

H. 1524—Carnes, Waldrop, Wynot

AN ACT

To repeal Act No. 111, H. 252, approved July 1, 1969, Regular Session 1969 (Acts 1969, p. 391), entitled, "An Act To apply only in counties having populations of not less than 96,000 nor more than 106,000, regulating the compensation and allowances of members of the county board of education."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 111, H. 252, approved July 1, 1969, Regular Session 1969 (Acts 1969, p. 391), entitled, "An Act to apply only in counties having populations of not less than 96,000 nor more than 106,000, regulating the compensation and allowances of members of the county board of education," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved August 31, 1971.

Time: 12:27 P.M.

Act No. 721

H. 1547—Benton, Kinsey

AN ACT

To further amend Section 1 of Act No. 638, H. 1084, Regular Session 1965 (Acts 1965, p. 1159) as amended by Act No. 1183, H. 1344, approved September 13, 1969 (Acts of Alabama 1969, Vol. III, Page 2212) entitled "An Act to amend Act No. 638, H. 1084, Regular Session 1965 (Acts 1965, p. 1159), an Act fixing the fee for issuance of a pistol permit by the sheriff and providing for the disposition and use of such fees" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 638, H. 1084, Regular Session 1965 (Acts 1965, p. 1159) as amended by Act No. 1183, H. 1344, approved September 13, 1969 (Acts of Alabama 1969,

Vol. III, Page 2212) entitled "An Act to amend Act No. 638, H. 1084, Regular Session 1965 (Acts 1965, p. 1159), an Act fixing the fee for issuance of a pistol permit by the sheriff and providing for the disposition and use of such fees" is amended to read as follows:

"Section 1. In all counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama, Title 14, Section 177, shall be five dollars, which shall be collected by the sheriff. Any and all moneys collected under this section of this act shall be deposited by the sheriff of such county, in any bank located in such county, into a fund known as the Sheriff's Fund. The Sheriff's Fund as provided in this section of this Act shall be drawn upon by the sheriff of such county or his appointed agent and shall be used exclusively for law enforcement purposes and in the discharge of the sheriff's office as he sees fit. The establishment of the Sheriff's Fund as provided in this Act and the use of such funds shall in no way diminish or take the place of any other imbursement or other source of income established for the sheriff or the operation of his office."

Section 2. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:28 P.M.

Act No. 722

H. 1544—Kinsey, Benton

AN ACT

To amend the title and Section 1 of Act No. 898, H. 1265, approved September 12, 1969 (Acts of Alabama, 1969, Vol. 11, Page 1624) entitled "An Act applying only in counties having populations of not less than 48,500 nor more than 49,500, according to the most recent federal decennial census; providing for additional meetings of the governing bodies of such counties and for additional compensation and expense allowances for the members of said body, including the chairman" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 898, H. 1265, approved September 12, 1969 (Acts of Alabama, 1969, Vol. II, Page 1624) entitled "An Act applying only in counties having populations

of not less than 48,500 nor more than 49,500, according to the most recent federal decennial census; providing for additional meetings of the governing bodies of such counties and for additional compensation and expense allowances for the members of said body, including the chairman" is amended to read as follows:

"An Act applying only in counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census; providing for additional meetings of the governing bodies of such counties and for additional compensation and expense allowances for the members of said body, including the chairman."

Section 2. Section 1 of Act No. 898, H. 1265, approved September 16, 1969 (Acts of Alabama 1969, Vol. II, Page 1624) is amended to read as follows:

"Section 1. In all counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, the court of county commissioners, board of revenue, or other like governing body of the county shall hold regular meetings twice a month on the first and third Tuesdays of each month."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:29 P.M.

Act No. 723

H. 1546—Kinsey, Benton

AN ACT

To amend the title and Section 1 of Act No. 931, H. 1345, approved September 12, 1969 (Acts of Alabama, 1969, Vol. II, Page 1669) entitled "An Act relating to counties having populations of not less than 48,500 nor more than 49,500, authorizing the governing body of any such county to appropriate county funds to certain non-profit organizations" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 931, H. 1345, approved September 12, 1969 (Acts of Alabama, 1969, Vol. II, Page 1669) entitled "An Act relating to counties having populations of not less than 48,500 nor more than 49,500, authorizing the govern-

ing body of any such county to appropriate county funds to certain non-profit organizations" is amended to read as follows:

"An Act relating to counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, authorizing the governing body of any such county to appropriate county funds to certain non-profit organizations".

Section 2. Section 1 of Act No. 931, H. 1345, approved September 12, 1969 (Acts of Alabama, 1969, Vol. II, Page 1669) is amended to read as follows:

"Section 1. The board of revenue, court of county commissioners or like governing body of any county having a population of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census is hereby authorized to appropriate a total of not more than \$2,500 to the following non-profit organizations for the purpose of equipment and supplies: County sheriff's radio patrol; county sheriff's flotilla; county search and rescue unit; and county sheriff's posse. The appropriation of \$2,500 hereby authorized shall be apportioned among such organizations at the discretion of the governing body. Payments shall be made from any funds in the county treasury not otherwise appropriated upon the warrant of the chairman of the county governing body.

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:30 P.M.

Act No. 724

H. 1548—Kinsey, Benton

AN ACT

To amend the title and Section 1 of Act No. 930, H. 1343, approved September 12, 1969 (Acts of Alabama, 1969, Vol. II, Page 1668) entitled "An Act relating to counties having populations of not less than 48,500 nor more than 49,500 to provide that the county governing bodies of such counties shall furnish necessary transportation for travel on official business of certain county officers" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 930, H. 1343, approved September 12, 1969 (Acts of Alabama, 1969, Vol. II, Page 1668)

entitled "An Act relating to counties having populations of not less than 48,500 nor more than 49,500, to provide that the county governing bodies of such counties shall furnish necessary transportation for travel on official business for certain county officers" is amended to read as follows:

"An Act relating to counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, to provide that the county governing bodies of such counties shall furnish necessary transportation for travel on official business for certain county officers."

Section 2. Section 1 of Act No. 930, H. 1343, approved September 12, 1969 (Acts of Alabama, 1969, Vol. II, Page 1668) is amended to read as follows:

"Section 1. The board of revenue, court of county commissioners or like governing body of any county having a population of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census shall furnish necessary transportation for travel on all official business for the tax assessor, tax collector, and probate judge, providing such officers are on salary basis. Travel on official business as used herein shall include but not be limited to visits to the precincts the tax assessor and tax collector are required by law to make annually."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:31 P.M.

Act No. 725

H. 1549—Benton, Kinsey

AN ACT

To amend the title of Act No. 589, H. 594, approved September 8, 1967 (Acts of Alabama, 1967, Vol. II, Page 1362) entitled "An Act to amend Act No. 616, H. 1163, Regular Session 1965 relating to counties having populations of not less than 48,200 nor more than 49,200 according to the most recent federal decennial census, and making further provisions respecting meetings of the board of registrars in such counties" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 589, H. 594, approved September 8, 1967 (Acts of Alabama, 1967, Vol. II, Page 1362)

entitled "An Act to amend Act No. 616, H. 1163, Regular Session 1965 relating to counties having populations of not less than 48,200 nor more than 49,200 according to the most recent federal decennial census, and making further provisions respecting meetings of the board of registrars in such counties" is amended to read as follows:

"An Act to amend Act No. 616, H. 1163, Regular Session 1965 relating to counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census, and making further provisions respecting meetings of the board of registrars in such counties."

Section 2. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:32 P.M.

Act No. 726

H. 1550—Kinsey, Benton

AN ACT

To amend the title and Section 1 of Act No. 545, S. 604, approved September 7, 1967 (Acts of Alabama, 1967, Vol. II, Page 1294) entitled "An Act relating to counties having populations of not less than 48,500 nor more than 49,500; providing an additional allowance for the tax assessors and tax collectors of such counties" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 545, S. 604, approved September 7, 1967 (Acts of Alabama, 1967, Vol. II, Page 1294) entitled "An Act relating to counties having populations of not less than 48,500 nor more than 49,500; providing an additional allowance for the tax assessors and tax collectors of such counties" is amended to read as follows:

"An Act relating to counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census; providing an additional allowance for the tax assessors and tax collectors of such counties."

Section 2. Section 1 of Act No. 545, S. 604, approved September 7, 1967 (Acts of Alabama, 1967, Vol. II, Page 1294) is amended to read as follows:

"Section 1. The tax assessors and tax collectors of all counties of this state having populations of not less than 57,000

nor more than 61,000 according to the most recent federal decennial census, shall each be entitled to receive an additional allowance of not more than two thousand dollars (\$2,000) per annum for clerical assistants. The exact amount of such additional allowance shall be fixed by the boards of revenue, courts of county commissioners, or like governing bodies of such counties and paid in monthly installments out of the county treasury on warrants drawn in the manner prescribed by law. The allowance herein provided shall be in addition to all salaries and allowances for expenses and clerical assistance now provided by law.

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:33 P.M.

Act No. 727

H. 1551—Benton, Kinsey

AN ACT

To amend the title and Section 1 of Act No. 60, H. 5, approved August 17, 1966 (Acts of Alabama, Special Session 1966, Vol. I, Page 82) entitled "An Act to apply only in counties in the state having a population of not less than 48,500 nor more than 49,500 inhabitants, according to the last or any subsequent federal decennial census, wherein the use of voting machines has been, or shall be, authorized; to provide that the county governing body in regulating and providing for the use of voting machines in all elections in the county may, in the manner herein prescribed, divide any voting precinct of the county into territories, designate in each territory a voting center at which the qualified electors of the territory so designated may vote, and prescribe the number of voting machines to be maintained at each voting center; and to provide election officers for each voting center designated by the county governing body, prescribe the duties of such election officers, and fix their compensation" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000 inhabitants, according to the last or any subsequent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 60, H. 5, approved August 17, 1966 (Acts of Alabama, Special Session 1966, Vol. I, Page 82) entitled "An Act to apply only in counties in the State having a population of not less than 48,500 nor more than 49,500 inhabitants, according to the last or any subsequent federal decennial census, wherein the use of voting machines has been, or shall be, authorized; to provide that the county governing body in regulating and providing for the use of voting machines

in all elections in the county may, in the manner herein prescribed, divide any voting precinct of the county into territories, designate in each territory a voting center at which the qualified electors of the territory so designated may vote, and prescribe the number of voting machines to be maintained at each voting center; and to provide election officers for each voting center designated by the county governing body, prescribe the duties of such election officers, and fix their compensation" is amended to read as follows:

"An Act to apply only in counties in the state having a population of not less than 57,000 nor more than 61,000 inhabitants, according to the last or any subsequent federal decennial census, wherein the use of voting machines has been, or shall be, authorized; to provide that the county governing body in regulating and providing for the use of voting machines in all elections in the county may, in the manner herein prescribed, divide any voting precinct of the county into territories, designate in each territory a voting center at which the qualified electors of the territory so designated may vote, and prescribe the number of voting machines to be maintained at each voting center; and to provide election officers for each voting center designated by the county governing body, prescribe the duties of such election officers, and fix their compensation."

Section 2. Section 1 of Act No. 60, H. 5, approved August 17, 1966 (Acts of Alabama, Special Session 1966, Vol. I, Page 82) is amended to read as follows:

"Section 1. This Act shall apply only in counties of the state having a population of not less than 57,000 nor more than 61,000 inhabitants according to the last or any subsequent federal decennial census. Unless a contrary intent appears from the context, as used herein, the word "county" means any county to which this Act applies; the phrase "County governing body" means the court of county commissioners, board of revenue, or other like governing body of any such county; the word "election" means any general, special, or primary election held in the county, including a district, municipal, county, state or federal election; and the term "voting center" means any place in the county which the county governing body designates as a place where a voting machine or voting machines will be maintained or operated at elections."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:34 P.M.

Act No. 728

H. 1552—Kinsey, Benton

AN ACT

To amend the title and Section 1 of Act No. 182, S. 128, approved August 23, 1966 (Acts of Alabama, Special Session 1966, Vol. I, Page 215) entitled "An Act to apply only in counties having populations of not less than 48,500 nor more than 49,500 according to the most recent federal decennial census; authorizing the county governing body to contribute county funds towards the construction and equipment of a museum" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 182, S. 128, approved August 23, 1966 (Acts of Alabama, Special Session, 1966, Vol. I, Page 215) entitled "An Act to apply only in counties having populations of not less than 48,500 nor more than 49,500, according to the most recent federal decennial census; authorizing the county governing body to contribute county funds toward the construction and equipment of a museum" is amended to read as follows:

"An Act to apply only in counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census; authorizing the county governing body to contribute county funds towards the construction and equipment of a museum."

Section 2. Section 1 of Act No. 182, S. 128, approved August 23, 1966 (Acts of Alabama, Special Session 1966, Vol. I, Page 215) is amended to read as follows:

"Section 1. The court of county commissioners, board of revenue, or other like governing body of any county having a population of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census, may in its discretion appropriate county funds and make contributions of public funds to aid in the construction, erection and equipment of a museum by the Fort Morgan Historical Commission.

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:35 P.M.

Act No. 729

H. 1553—Benton, Kinsey

AN ACT

To amend the title and Section 1 of Act No. 354, H. 356, approved September 12, 1966 (Acts of Alabama, Special Session 1966, Vol. I, Page

495) entitled "An Act to apply only in counties having populations of not less than 48,500 nor more than 49,500; regulating official bonds of county officers and employees and repealing conflicting laws" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall to all counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 354, H. 356, approved September 12, 1966 (Acts of Alabama, Special Session 1966, Vol. I, Page 495) entitled "An Act to apply only in counties having populations of not less than 48,500 nor more than 49,500; regulating official bonds of county officers and employees and repealing conflicting laws" is amended to read as follows:

"An Act to apply only in counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census; regulating official bonds of county officers and employees and repealing conflicting laws."

Section 2. Section 1 of Act No. 354, H. 356, approved September 12, 1966 (Acts of Alabama, Special Session 1966, Vol. I, page 495) is amended to read as follows:

"Section 1. In all counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, official bonds required of the sheriff may be made by a surety company or surety companies authorized by their charters to make such bonds provided they are qualified to do business in this state, and may be made with individual sureties or banks or other corporations qualified to do business in this state and authorized under their charters to make such bonds."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:36 P.M.

Act No. 730

H. 1555—Benton, Kinsey

AN ACT

To amend the title and Section 1 of Act No. 616, H. 1163, approved August 26, 1965 (Acts of Alabama, 1965, Vol. II, Page 1130) entitled "An Act to regulate further the meeting days and compensation of the county boards of registrars in all counties having populations of not less than 48,200 nor more than 49,200, according to the most recent federal decennial census" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all

counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 616, H. 1163, approved August 26, 1965 (Acts of Alabama, 1965, Vol. II, Page 1130) entitled "An Act to regulate further the meeting days and compensation of the county boards of registrars in all counties having populations of not less than 48,200 nor more than 49,200, according to the most recent federal decennial census" is amended to read as follows:

"An Act to regulate further the meeting days and compensation of the county boards of registrars in all counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census."

Section 2. Section 1 of Act No. 616, H. 1163, approved August 26, 1965 (Acts of Alabama, 1965, Vol. II, Page 1130) is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:37 P.M.

Act No. 731

H. 1556—Kinsey, Benton

AN ACT

To amend the Title and Section 1 of Act No. 171, S. 109, approved April 5, 1965 (Acts of Alabama, Special Session 1965, Vol. I, Page 222) entitled "An Act relating to counties having populations of not less than 48,500 nor more than 49,750; to provide for payment by the county of per diem allowances to members of boards of registrars in such counties" so that said Act after passage and approval by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 171, S. 109, approved April 5, 1965 (Acts of Alabama, Special Session 1965, Vol. I, Page 222) entitled "An Act relating to counties having populations of not less than 48,500 nor more than 49,750; to provide for

payment by the county of per diem allowances to members of boards of registrars in such counties" is amended to read as follows:

"An Act relating to counties having populations of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census; to provide for payment by the county of per diem allowances to members of boards of registrars in such counties."

Section 2. Section 1 of Act No. 171, S. 109, approved April 5, 1965 (Acts of Alabama, Special Session 1965, Vol. I, Page 222) is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:38 P.M.

Act No. 732

H. 1558—Kinsey, Benton

AN ACT

To amend the title and Section 1 of Act No. 180, H. 221, approved August 28, 1964, (Acts of Alabama, Special Session 1964, Vol. I, Page 246) entitled "An Act to authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 48,100 nor more than 49,700 according to the 1960 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 180, H. 221, approved August 28, 1964 (Acts of Alabama, Special Sessions 1964, Vol. I, Page 246) entitled "An Act to authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 48,100 nor more than 49,700 according to the 1960 or any subsequent federal decennial census; to prescribe the fees for such

licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act" is amended to read as follows:

"An Act to authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act."

Section 2. Section 1 of Act No. 180, H. 221, approved August 28, 1964 (Acts of Alabama, Special Sessions 1964, Vol. I, Page 246) is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:39 P.M.

Act No. 733

H. 1559—Benton, Kinsey

AN ACT

To amend the title and Section 1 of Act No. 363, H. 757, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 383) entitled "An Act to provide contingent funds for all counties having populations of not less than 48,500 nor more than 49,500, and regulating the use of such funds" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the most recent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 363, H. 757, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 383) entitled "An Act to provide contingent funds for all counties having populations of not less than 48,500 nor more than 49,500, and regulating the use of such funds" is amended to read as follows:

"An Act to provide contingent funds for all counties having populations of not less than 57,000 nor more than 61,000 accord-

ing to the most recent federal decennial census, and regulating the use of such funds.”

Section 2. Section 1 of Act No. 363, H. 757, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 383) is amended to read as follows:

“Section 1. The Court of County Commissioners, Boards of Revenue or other like governing body in any county having a population of not less than 57,000 nor more than 61,000 according to the most recent federal decennial census, is hereby authorized and empowered to appropriate out of any moneys in the county treasury not otherwise appropriated, and to expend not exceeding the sum of Five Thousand Dollars (\$5,000.00) per annum for any purposes, not otherwise provided for by law, that in their judgment are worthy and for the best interest of the county, the fund hereby authorized to be known as the “Contingent Fund”. Provided, however, the expenditure herein provided shall first be authorized by the governing body of the county in a resolution spread upon its minutes.”

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 12:40 P.M.

Act No. 734

H. 1560—Kinsey, Benton

AN ACT

To amend the title and Section 1 of Act No. 345, H. 639, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 365) entitled “An Act to empower the board of revenue, court of county commissioners, or other like governing body of counties having a population of not less than 48,500 nor more than 49,500 inhabitants, according to the 1960 or any subsequent federal decennial census, to authorize the offices of officials in the courthouse to be closed all day on Saturday each week” so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 345, H. 639, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 365) entitled “An Act to empower the board of revenue, court of county commissioners, or other like governing body of counties having a population of not less than 48,500 nor more than 49,500 in-

habitants, according to the 1960 or any subsequent federal decennial census, to authorize the offices of officials in the courthouse to be closed all day on Saturday each week" is amended to read as follows:

"An Act to empower the board of revenue, court of county commissioners, or other like governing body of counties having a population of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census, to authorize the offices of officials in the courthouse to be closed all day on Saturday each week."

Section 2. Section 1 of Act No. 345, H. 639, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 365) is amended to read as follows:

"Section 1. The board of revenue, court of county commissioners, or other like governing body of any county having a population of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census, may, in its discretion and by resolution spread upon its minutes, authorize the offices of the officials in the courthouse of such county to be closed all day on Saturday each week, any provision of law to the contrary notwithstanding."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:41 P.M.

Act No. 735

H. 1561—Benton, Kinsey

AN ACT

To amend the title and Section 1 of Act No. 350, H. 644, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 368), entitled "An Act relating to corporations organized to operate municipal water, sewer, gas, and electric systems, regulating further the compensation of members of boards of directors of such corporations in all counties having a population of not less than 48,500 nor more than 49,500, according to the 1960 or any subsequent federal decennial census" so that said Act after passage and approval of this Act by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 350, H. 644, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 368) en-

titled "An Act relating to corporations organized to operate municipal water, sewer, gas and electric systems, regulating further the compensation of members of boards of directors of such corporations in all counties having a population of not less than 48,500 nor more than 49,500 according to the 1960 or any subsequent federal decennial census" is amended to read as follows:

"An Act relating to corporations organized to operate municipal water, sewer, gas and electric systems, regulating further the compensation of members of boards of directors of such corporations in all counties having a population of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census."

Section 2. Section 1 of Act 350, H. 644, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 368) is amended to read as follows:

"Section 1. When any officer of a municipality is a member of the board of directors of a corporation organized to operate a municipal water, sewer, gas or electric system pursuant to the Act of June 29, 1951, in any county having a population of not less than 57,000 nor more than 61,000 according to the last or any subsequent federal decennial census, he is entitled to compensation the same as the other directors of the corporation, the provisions of any other law to the contrary notwithstanding."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:42 P.M.

Act No. 736

H. 1562—Kinsey, Benton

AN ACT

To amend the title and Section 1 of Act No 349, H. 643, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 367) entitled "An Act relating to all counties having a population of not less than 48,500 nor more than 49,500 according to the 1960 or any subsequent federal census; regulating the compensation and allowances of directors of certain utility boards heretofore or hereafter established in such counties" so that said Act after passage and approval of this Act by the Governor or otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 349, H. 643, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 367) entitled "An Act relating to all counties having a population of not less than 48,500 nor more than 49,500, according to the 1960 or any subsequent federal census, regulating the compensation and allowances of directors of certain utility boards heretofore or hereafter established in such counties" is amended to read as follows:

"AN Act relating to all counties having a population of not less than 57,000 nor more than 61,000 according to the last or any subsequent federal census, regulating the compensation and allowances of directors of certain utility boards heretofore or hereafter established in such counties".

Section 2. Section 1 of Act No. 349, H. 643, approved August 7, 1961 (Acts of Alabama 1961, Vol. I, Page 367) is amended to read as follows:

"Section 1. The provisions of this Act shall apply only in counties having a population of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal census."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:43 P.M.

Act No. 737

H. 1563—Benton, Kinsey

AN ACT

To amend the title and Section 1 of Act No. 846, H. 1529, approved September 8, 1961 (Acts of Alabama 1961, Vol. II, Page 1263) entitled "An Act relating to the appointment, duties, and compensation of the county treasurer in all counties having populations of not less than 48,500 nor more than 49,750" so that said Act after passage and approval by the Governor or its otherwise becoming law, shall apply to all counties having populations of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census, and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The title to Act No. 846, H. 1529, approved September 8, 1961 (Acts of Alabama 1961, Vol. II, Page 1263) entitled "An Act relating to the appointment, duties, and compensation of the county treasurer in all counties having popula-

tions of not less than 48,500 nor more than 49,750" is amended to read as follows:

"An Act relating to the appointment, duties, and compensation of the county treasurer in all counties having populations of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census."

Section 2. Section 1 of Act No. 846, H. 1529, approved September 8, 1961 (Acts of Alabama 1961, Vol. II, Page 1263) is amended to read as follows:

"Section 1. The county governing body of any county having a population of not less than 57,000 nor more than 61,000, according to the last or any subsequent federal decennial census, may designate some individual to act as treasurer of the county under such terms and conditions as may be prescribed by such governing body."

Section 3. This Act shall become effective August 2, 1971, or upon its otherwise becoming law.

Approved August 31, 1971.

Time: 12:44 P.M.

Act No. 738

H. 1596—Hale, King, Hearn, Grainger, Lutz

AN ACT

Relating to cities having a population of not less than 135,000 nor more than 185,000 according to the last or any subsequent federal decennial census; providing that such cities shall be governed by a mayor and five councilmen; providing for the election of the mayor and council of all such cities; further providing for the powers and duties of the mayor in said cities; providing for qualifying fees for each person who is a candidate for office of the mayor and for office of the council in said cities; further providing for the compensation of the mayor within said cities; providing for the appointment by the Mayor of an administrative assistant to the mayor within said cities; and providing for an effective date for this act.

Be It Enacted by the Legislature of Alabama:

Section 1. All cities having populations of not less than 135,000 nor more than 185,000 according to the last or any subsequent federal decennial census, shall be governed by a mayor and five councilmen, as herein provided. The places on the council of said cities shall be numbered as follows, to-wit, Councilmen place number 1; Councilmen place number 2; Councilmen place number 3; Councilmen place number 4; and Councilmen place number 5. Such officers shall form the City Council and shall have and exercise the legislative functions of the city

and such other powers and duties as are or may be vested by law in the City Council or its members. All the councilmen herein provided for shall be elected from the city at large and no person should be a candidate or be permitted to file a statement for candidacy for more than one of such places. No ballots shall be counted for any candidate except for the place or number for which he announced by his statement of candidacy. All cities within the population class covered by this act, governed on the effective date of this act by a mayor and five councilmen serving in numbered places, shall elect successors as herein provided. The terms of the incumbent mayor and of the incumbent councilmen place number 1, and place number 2, shall expire on the first Monday in October in the year 1972. The terms of the incumbent councilmen places number 3, 4, and 5, shall expire on the first Monday in October in the year 1974. The successor of the mayor and the successors of the councilmen place number 1 and place number 2 shall be elected at an election to be held on the first Tuesday next, after Labor Day in the year 1972, and every four years thereafter for terms of four years commencing on the first Monday of October next, after their election. The successors of the incumbent councilmen serving in places number 3, number 4, and number 5, shall be elected on the first Tuesday next, after Labor Day in the year 1974, and every four years thereafter for terms of four years commencing on the first Monday in October next, after their election.

Section 2. "Each candidate for election to the office of mayor upon filing his statement of candidacy, shall pay a qualifying fee not exceeding \$200, which fee shall be set by the city council not less than six months before the election, and each candidate for election to the office of city councilman, upon filing his statement of candidacy, shall pay a qualifying fee of \$100. Such fees shall be paid to the mayor or city treasurer or to such other official of the city as the council may designate, and when collected shall be deposited in the city treasury, to be used for general municipal purposes."

Section 3. Any candidate who receives a majority of all votes cast for all candidates seeking election to the position for which he is a candidate shall be declared elected to that position. In the event no candidate receives a majority of all the votes cast for any one or more positions on the council then the council shall order a second or run-off election to be held on the last Tuesday in September next after the initial election, at which election the two candidates receiving the most and the second most votes, respectively, for each position to be filled shall be candidates, and the person receiving the highest number of votes for each office for which the run-off election is held shall be declared elected. A certificate of election shall be given by

the council, or a majority of them to each of the persons elected. Such certificate shall entitle the person so certified to the possession of the office to which he was elected immediately upon the expiration of the term of the incumbent of the office, as provided by law. In the event that all opposition to a candidate in the run-off election is withdrawn, then no second election need be held for such position and such candidate shall receive a certificate of election. In the event of a tie vote between two or more persons in such runoff election for the same position, the currently serving council shall decide the election. A vote for a particular candidate by a majority of the total membership of such body shall be necessary to decide the election in his favor. On the first Monday in October after the election, the members of the council elected pursuant to this Act shall assemble and organize and choose a chairman or president of the council from among their own number.

Section 4. The Mayor shall devote his full time to the office of Mayor and shall receive as compensation for his services \$25,000 per annum, payable from the general fund or City Treasury in the same manner as other officers and employees of the City are paid. Provided, however, that should the general laws of the State of Alabama at any time after the passage and approval of this act authorize a salary of more than \$25,000, for the Mayor or Chief Executive officer of any city in the State having a population of 135,000 or more, according to the 1960 or any subsequent Federal Decennial Census, then in that event, the City Council of any city having a Mayor-Council form of government and having a population of not less than 135,000 nor more than 185,000 according to the last or any subsequent Federal Decennial Census, is hereby authorized to prescribe and fix a salary for the Mayor not less than six months prior to each general municipal election at which the Mayor is elected in excess of \$25,000, but not exceeding the maximum amount then authorized by the general laws of the State as aforesaid. This section shall not be applied to compensation paid prior to the term of office beginning next after the general municipal election to be held in the year 1972.

Section 5. The election of any person to office as provided in this act may be contested upon the same ground and in the same manner provided for contesting the election for Judge of Probate, insofar as applicable, but such a contest must be initiated within three days after the election. Except as herein provided, the election shall be called, conducted and provided for otherwise according to the provisions governing the holding of general municipal elections within the State by cities having the Mayor-Council form of government.

Section 6. The purpose of this Act is to provide further for the election and organization of the council in cities, within

its purview when such cities operate under the mayor-council form of government; and nothing contained in this Act shall prevent or prohibit any city within the application hereof to adopt, in the manner prescribed by law, any optional form of government which such city is authorized to adopt under the general laws of Alabama.

Section 7. The Mayor shall be the chief executive officer, and shall have general supervision and control of all other officers and affairs of the City, except as herein otherwise provided. The Mayor shall appoint all officers and department heads who hold appointive offices, including the officers referred to or provided for in Code of Alabama, Title 37, Section 405, but such appointments shall be effective only if they are approved by a majority affirmative vote of all members of the Council. The Mayor may remove or demote any officer or department head for good cause, and may fill the vacancy caused thereby, permanently if the appointment of such officer is made by the Mayor, pursuant to law, without the consent or approval of the Council. If such officer was elected by the Council or appointed with its consent or approval such removal or demotion shall be reported to the next regular or special meeting of the Council at which time the temporary suspension or demotion shall be terminated, either by the vote of a majority of those elected to the Council, making the suspension or demotion permanent or by reinstatement due to the failure of a majority of the Council to sustain the action of the Mayor. Should the Mayor fail or refuse to submit an appointment to the Council within 60 days from the time a vacancy occurs, or should the Mayor fail or refuse to make another appointment, within 60 days after an appointment made as provided herein has failed to receive a majority affirmative vote of the Council, then the Council shall have the power by a two-thirds vote of all those elected to the Council to make such appointment and fill such vacancy.

Section 8. The mayor shall attend all meetings of the council but shall not have a vote on any question coming to a vote in any proceeding or deliberation of the council.

Section 9. The mayor may appoint an administrative assistant subject to approval by majority vote of the council who shall hold office for a term concurrent with that of the mayor unless sooner removed by the mayor subject only to approval by the council as provided in section 7 hereof. The administrative assistant shall perform such duties as the mayor may prescribe, and shall receive a salary fixed by the mayor in the same manner provided for the fixing of salaries for department heads.

Section 10. All laws and parts of laws and specifically that part of Code of Alabama, Title 37, Sections 404, 440 and 441,

as amended, and Act No. 663, S. 132, Regular Session 1961 (Acts 1961, p 827) in conflict with this Act are repealed.

Section 11. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 12. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 12:45 P.M.

Act No. 739

H. 1685—Stubbs

AN ACT

To alter, re-arrange and extend the boundaries and corporate limits of the city of Montevallo so as to incorporate certain territory as described herein.

Be It Enacted by the Legislature of Alabama:

Section 1. To alter, re-arrange and extend the boundaries and corporate limits of the city of Montevallo so as to incorporate certain territory as described herein, to-wit:

A tract of land composed of the entire SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 16, Township 22 South, Range 3 West and further described as follows: Begin at the Southeast corner of said quarter-quarter section and at an angle of 88 deg. 36 min. to the right from the South side of same go 1318.03 feet to Northeast corner of same, thence at an angle of 88 deg. 40 min. to the left 1313.80 feet, thence at an angle of 88 deg. 30 min. to the left 1317.26 feet, thence at an angle of 91 deg. 34 min. to the left 1310.00 feet to point of beginning; situated in Shelby County, Alabama.

Section 2. The substantive provisions of this Act shall become operative only if the Act is approved by the qualified electors who reside within that part of the territory hereinabove described which is not presently included within the corporate limits of the city of Montevallo, voting in a referendum election to be held on a day designated by the Probate Judge of Shelby County, not less than twenty nor more than forty days from the date of this enactment. The notice of the election shall be given by the Probate Judge of Shelby County, and the election shall be held, conducted and the results thereof canvassed in the manner prescribed by Article 2 of Chapter 5 of Title 37, Code of Alabama 1940, for giving notice of and conducting elections

on the question of annexing territory to cities of twenty-five thousand or more inhabitants insofar as such provisions of said article may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the probate judge, nor need a plat or map of the territory to be annexed be filed with the Probate Judge. The question shall be on the adoption of Act to be introduced in a Session of the Legislature, which alters, rearranges and extends the corporate limits of the City of Montevallo in Shelby County. Each voter may furnish his own ballot, and if he desires to vote for the adoption of said Act there shall be written or printed on such ballot the word "Yes." If he desires to vote against the adoption of such Act the word "no" shall be written or printed on his ballot. The City of Montevallo shall pay all costs and expenses incident to the election.

If a majority of the votes cast in the election are "yes" the provisions of this Act shall become operative immediately. If the majority are "no" this Act shall have no further effect.

Approved August 31, 1971.

Time: 12:46 P.M.

Act No. 740

H. 1686—Stubbs

AN ACT

To alter, re-arrange and extend the boundaries and corporate limits of the City of Alabaster so as to incorporate certain territory as described herein.

Be It Enacted by the Legislature of Alabama:

Section 1. To alter, re-arrange and extend the boundaries and corporate limits of the City of Alabaster so as to incorporate certain territory as described herein, to-wit:

Begin at the northeast corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 27, Township 20 South, Range 3 West, Shelby County, Alabama; thence turn in a westerly direction along the north line of said quarter-quarter a distance of 1320 feet, more or less, to the northwest corner of said quarter-quarter; thence run in a southerly direction along the west line of said quarter-quarter a distance of 1320 feet, more or less, to the southwest corner of said quarter-quarter, said point also being the northwest corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 27; thence continue on last described course along the west line of said SE $\frac{1}{4}$ of SE $\frac{1}{4}$ a distance of 1320 feet, more or less, to the southwest corner of said quarter-quarter; thence run in an easterly direction along the south line of said quarter-quarter

a distance of 1320 feet, more or less, to the southeast corner of the said quarter-quarter, said point also being the southwest corner of the southwest quarter of the southwest Quarter of Section 26, Township 20 South, Range 3 West; thence continue on last described course in an easterly direction along the south line of said SW $\frac{1}{4}$ of SW $\frac{1}{4}$ a distance of 1320 feet, more or less, to the Southeast corner of said quarter-quarter; thence run in a northerly direction along the east line of said quarter-quarter a distance of 1320 feet, more or less, to the northeast corner of said quarter-quarter, said point also being the southeast corner of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26; thence continue on last described course, continuing in a northerly direction along the east line of said NW $\frac{1}{4}$ of SW $\frac{1}{4}$ a distance of 1320 feet, more or less, to the northeast corner of said quarter-quarter, said point also being the southeast corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 26; thence continue in a northerly direction along the east line of said SW $\frac{1}{4}$ of NW $\frac{1}{4}$ a distance of 1320 feet, more or less, to the northeast corner of said quarter-quarter; thence run in a westerly direction along the north lines of said quarter-quarter a distance of 1320 feet, more or less, to the northwest corner of said quarter-quarter; thence run in a southerly direction along the west line of said SW $\frac{1}{4}$ of NW $\frac{1}{4}$ a distance of 1320 feet, more or less, to the point of beginning: situated in Shelby County, Alabama.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 12:47 P.M.

Act No. 741

H. 1705—Baker, Chesnut

AN ACT

TO AMEND SECTION 12 AND 13 OF ACT NUMBER 418 APPROVED NOVEMBER 13, 1959:

To authorize the governing body of DeKalb County, Alabama, to impose an excise tax on persons, corporations, co-partnerships, companies, agencies and associations engaged in the business of selling, distributing, storing or withdrawing from storage, for any purpose whatever, gasoline or other liquid motor fuel or devices or substitute therefor in said county; to provide for the collection and payment of such tax and to provide the distribution and the use of the funds derived therefrom; to authorize the governing body of such county to make reasonable rules and regulations for the collection of such tax and to provide for the enforcement of this Act and to fix a penalty for the violation of any provision of this Act and of the rules and regulations

prescribed by the governing body of such county for the collection of said tax.

Be It Enacted by the Legislature of Alabama:

Section I: That Section 12 of Act 418, approved November 13, 1959, is hereby amended to read as follows:

"Section 12. The proceeds of any tax imposed under authority of this Act shall be paid into a special fund in the County Treasury for use as provided in Section 13."

Section II: That Section 13 of Act 418, approved November 13, 1959, is hereby amended to read as follows:

"Section 13. Expenditures from the Special Fund provided for in Section 12, shall be made for the purpose of providing necessary funds for school purposes and for road and bridge funds for DeKalb County, and shall be divided as follows: One Hundred Fifteen Thousand Dollars (\$115,000.00) annually for the road and bridge fund for DeKalb County, and the balance of said funds derived from the tax levied by this Act shall be for school purposes in DeKalb County and shall be distributed by the County Treasurer or any other person designated by law to draw warrants on the County funds to the DeKalb County Board of Education, and is to be distributed by the DeKalb County Board of Education within DeKalb County, Alabama, on the same basis as funds are distributed from the minimum program funds received by DeKalb County from the State of Alabama, and shall be distributed to the several school systems in DeKalb County in accordance with the minimum program funds formula. The funds derived from the tax shall be distributed monthly on a pro-rata basis to the road and bridge fund of DeKalb County and to the DeKalb County Board of Education by the County Treasurer or any other person designated by law to draw warrants on the County Funds."

Section III: Should any section, paragraph or portion of this Act be declared unconstitutional it shall not invalidate the remaining sections, paragraphs or portions hereof.

Section IV: That all laws and parts of laws in conflict with the provisions of this Act are hereby repealed insofar as they relate to DeKalb County, Alabama.

Section V: This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved August 31, 1971.

Time: 12:50 P.M.

Act No. 742

H. 920—Crowe

AN ACT

To amend the title and Section 1 of Act No. 686, H. 1094, approved September 20, 1957 (Acts 1957, p. 1037), as last amended, which further defines the police jurisdiction of certain incorporated municipalities situated in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 686, H. 1094, approved September 20, 1957 (Acts 1957, p. 1037), as last amended, is amended to read as follows:

“An Act relating to counties having populations of not less than 55,500 nor more than 56,500, according to the 1970 or or any subsequent federal decennial census; further defining the police jurisdiction of certain incorporated municipalities situated in such counties.”

Section 2. Section 1 of said Act No. 686, H. 1094, is amended to read as follows:

“Section 1. Whenever the corporate limits of any two incorporated municipalities situated in any county having a population of not less than 55,500 nor more than 56,500, according to the last or any subsequent federal decennial census, are so situated that the police jurisdictions, as such jurisdiction is defined by general law, of such municipalities overlap, the police jurisdiction of each such municipality shall extend, at all points in the area in which such overlapping would occur, no further than to a point equidistant between the corporate limits of such municipalities.”

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:00 P.M.

Act No. 743

H. 921—Crowe

AN ACT

To amend further Section 11 of Title 19, Code of Alabama (1940), as last amended, which relates to the appointment of commissioners in condemnation proceedings and requires probate judges to appoint members of the county board of equalization as commissioners in any pro-

ceeding in which the county is a party in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11 of Title 19, Code of Alabama (1940), as last amended, is amended to read as follows:

"Section 11. If the application be granted, in whole or in part, the judge of probate must appoint three citizens of the county in which the lands sought to be condemned are situated, who shall possess the qualifications of jurors, who shall be disinterested, and who shall file a certificate along with their award that neither of them had ever been consulted, advised with, or approached by any person in reference to the value of the lands, or the proceedings to condemn the same prior to the assessment of damages, and that they knew nothing of the same prior to their appointment; and the judge of probate may fill any vacancy occasioned by death, failure to act, or any disqualification of any such commissioners from interest, prior knowledge of the subject-matter, or being consulted with, advised with, or approached in reference to the condemnation of such lands prior to appointment or assessment of the damages. Provided, however, that the judge of probate is authorized, directed and required to appoint the members of the county board of equalization to serve as commissioners in any condemnation proceeding where the county is a party of such proceeding, in any county having a population of not less than 55,500 nor more than 56,500 inhabitants, according to the 1970 or any subsequent federal decennial census."

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:01 P.M.

Act No. 744

H. 922—Crowe

AN ACT

To amend the title and Section 1 of Act No. 127, H. 123, Special Session 1969 (Acts 1969, p. 195), which provides expense allowances to certain municipal officers who are directors of public utility boards in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 127, H. 123, Special Session 1969 (Acts 1969, p. 195), is amended to read as follows:

"An Act To apply only in counties having populations of not less than 55,500 nor more than 56,500; providing for payment of expense allowances to certain municipal officers who are directors of municipal waterworks, gas, and other like public utility boards."

Section 2. Section 1 of said Act No. 127, H. 123, is amended to read as follows:

"Section 1. Any provision of law to the contrary notwithstanding a member of the board of directors of an incorporated municipal waterworks, gas or other public utility board, who is also a member of the municipal governing body of a municipality in counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census, shall be entitled to receive the same allowance for expenses in connection with his duties as a member of such board of directors of the corporation as other members of the board. The allowance shall be paid at the same time and in the same manner that expense allowances are paid to members of the board of directors who are not members of the municipal governing body."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:02 P.M.

Act No. 745

H. 923—Crowe

AN ACT

To amend the title and Section 1 of Act No. 49, H. 79, Special Session 1970 (Acts 1970, p. 2673), which provides for eligibility to hold public office in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 49, H. 79, Special Session 1970 (Acts 1970, p. 2673), is amended to read as follows:

"An Act To provide for eligibility to hold public office in all counties having a population of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census."

Section 2. Section 1 of said Act No. 49, H. 79, is amended to read as follows:

"Section 1. In all counties having a population of not less than 55,500 nor more than 56,500, according to the most recent

federal decennial census, any person eligible to hold the office of beat or precinct committeeman for any political party or the office of member of a municipal or county board of education, shall not be ineligible to hold such office or run for and be elected to such office by reason of such person being employed by a municipality or by a county and subject to the provisions of any applicable civil service law or system."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:03 P.M.

Act No. 746

H. 925—Crowe

AN ACT

To amend the title and Section 1 of Act No. 883, H. 1232, Regular Session 1969 (Acts 1969, p. 1589), which provides clerk hire allowances for the judges of probate and sheriffs of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 883, H. 1232, Regular Session 1969 (Acts 1969, p. 1589), is amended to read as follows:

"An Act Relating to counties having populations of not less than 55,500 nor more than 56,500; to provide clerk hire allowances for the judge of probate and for the sheriffs in such counties."

Section 2. Section 1 of said Act No. 883, H. 1232, is amended to read as follows:

"Section 1. The court of county commissioners, board of revenue or other like governing body in any county having a population of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census shall provide the probate judge of the county a clerk hire allowance of \$5,100 per year payable out of the general funds of the county, and shall provide the sheriff a clerk hire allowance of \$1200 per year payable out of the general fund. The clerk hire allowances herein provided shall be in addition to any such allowances heretofore provided by law."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:04 P.M.

Act No. 747

H. 926—Crowe

AN ACT

To amend the title and Section 1 of Act No. 857, H. 1179, Regular Session 1969 (Acts 1969, p. 1563), which fixes the compensation of jury commissions in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 857, H. 1179, Regular Session 1969 (Acts 1969, p. 1563), is amended to read as follows:

“An Act To fix the compensation of jury commissions in all counties having populations of not less than 55,500 nor more than 56,500.”

Section 2. Section 1 of said Act No. 857, 1179, is amended to read as follows:

“Section 1. Each member of the jury commission in all counties having populations of not less than 55,500 nor more than 56,500 inhabitants, according to the 1970 or any subsequent federal decennial census, shall be paid the sum of twenty dollars per day for the time actually engaged in the discharge of his duties as such member, to be paid out of the county treasury upon the warrant of the probate judge of the county. The compensation of each member of the jury commission shall not, however, exceed the sum of twelve hundred dollars for any one year.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 2, 1971.

Time: 3:53 P.M.

Act No. 748

H. 927—Crowe

AN ACT

To amend Section 1 of Act No. 342, H. 809, Regular Session 1969 (Acts 1969, p. 713), which regulates further nighttime hunting in certain counties of the state classified on a population basis; providing for the taking, catching or killing of raccoons and o'possums during nighttime hours, but only under certain conditions and with a certain kind of gun and ammunition in such counties, when authorized by a rule of the director of conservation; and providing penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 342, H. 809, Regular Session 1969 (Acts 1969, p. 713), is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations, according to the most recent federal decennial census of not less than 16,245 nor more than 16,300; not less than 16,600 nor more than 16,950; not less than 22,575 nor more than 23,800; not less than 50,000 nor more than 52,500; not less than 55,500 nor more than 56,500."

Section 2. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:05 P.M.

Act No. 749

H. 928—Crowe

AN ACT

To amend the title and Section 1 of Act No. 144, H. 154, Special Session 1969 (Acts 1969, p. 208), which provides an expense allowance for judges of inferior courts in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 144, H. 154, Special Session 1969 (Acts 1969, p. 208), is amended to read as follows:

"An Act Relating to counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census. Providing an expense allowance for judges of inferior courts in such counties."

Section 2. Section 1 of said Act No. 144, H. 154, is amended to read as follows:

"Section 1. This Act shall apply in all counties having a population of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 2, 1971.

Time: 3:54 P.M.

Act No. 750

H. 929—Crowe

AN ACT

To amend the title and Section 1 of Act No. 624, H. 807, Regular Session 1967 (Acts 1967, p. 1429), which authorizes the county governing

body of certain counties classified on a population basis, to provide automobiles or automotive equipment for the use of the sheriff and his deputies in performing their duties.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 624, H. 807, Regular Session 1967 (Acts 1967, p. 1429), is amended to read as follows:

“An Act To apply only in counties having populations of not less than 55,500 nor more than 56,500; authorizing the court of county commissioners, board of revenue, or other like governing body of any such county to provide automobiles or other automotive equipment for the use of the sheriff and his deputies in and about the performance of their duties.”

Section 2. Section 1 of said Act No. 624, H. 807, is amended to read as follows:

“Section 1. In all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census, the court of county commissioners, board of revenue, or other like governing body of the county may buy and provide for the sheriff an additional automobile for his use and the use of his deputies in and about the performance of their official duties, and may from time to time, hereafter, provide such automobiles and other automotive equipment as may be by them deemed necessary for the official use of the sheriff and his deputies.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:06 P.M.

Act No. 751

H. 930—Crowe

AN ACT

To amend the title and Section 1 of Act No. 600, H. 657, Regular Session 1967 (Acts 1967, p. 1385), which provides for the assessment of ad valorem taxes on real and personal property, the claiming of statutory exemptions thereon, and penalties for failure to comply, relating to certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 600, H. 657, Regular Session 1967 (Acts 1967, p. 1385), is amended to read as follows:

“An Act To provide for the assessment of ad valorem taxes on real and personal property in counties having a population

of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census; to provide for the claiming of statutory exemptions on such property; and to provide penalties for failure to comply with the provisions of this Act."

Section 2. Section 1 of said Act No. 600, H. 657, is amended to read as follows:

"Section 1. This Act shall apply only to counties having a population of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:07 P.M.

Act No. 752

H. 931—Crowe

AN ACT

To amend the title and Section 1 of Act No. 562, H. 656, Regular Session 1967 (Acts 1967, p. 1316), which provides an additional and alternative method of assessing, paying taxes on, and issuing license tags for motor vehicles in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 562, H. 656, Regular Session 1967 (Acts 1967, p. 1316), is amended to read as follows:

"An Act To provide an additional and alternative method of assessing, paying taxes on and issuing license tags for motor vehicles, in counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census."

Section 2. Section 1 of said Act No. 562, H. 656, is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:08 P.M.

Act No. 753

H. 932—Crowe

AN ACT

To amend the title and Section 1 of Act No. 40, H. 102, Regular Session 1967 (Acts 1967, p. 368), which sets the salary of the clerks of certain inferior courts in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 40, H. 102, Regular Session 1967 (Acts 1967, p. 368), is amended to read as follows:

“An Act To prescribe the salary of the clerks for all inferior courts created in lieu of justices of the peace in a precinct in the county and having county-wide jurisdiction of certain offenses, of all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census.”

Section 2. Section 1 of said Act No. 40, H. 102, is amended to read as follows:

“Section 1. The clerks employed for all inferior courts, created in lieu of justices of the peace in a precinct in the county and having county-wide jurisdiction of certain offenses, of all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census shall each receive a salary of two thousand seven hundred dollars (\$2,700) a year, payable in equal monthly installments out of the general funds of the respective counties as the salaries of other county employees are paid.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:09 P.M.

Act No. 754

H. 933—Crowe

AN ACT

To amend the title and Section 1 of Act No. 39, H. 101, Regular Session 1967 (Acts 1967, p. 367), which provides an expense allowance to be paid out of the general fund for the judges of certain inferior courts in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 39, H. 101, Regular Session 1967 (Acts 1967, p. 367), is amended to read as follows:

“An Act To provide an expense allowance for the judges of all inferior courts created in lieu of justices of the peace in

a precinct in the county and having county-wide jurisdiction of certain offenses, of all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census, such allowances to be paid out of the general fund of the respective counties."

Section 2. Section 1 of said Act No. 39, H. 101, is amended to read as follows:

"Section 1. In all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census the judges of the inferior courts created in lieu of justices of the peace in a precinct in the county and having county-wide jurisdiction of certain offenses, of such counties shall be entitled to an expense allowance of twenty-five dollars per month for expenses incurred in the performance of their official duties, such allowances shall be paid out of the general fund of the respective counties at the same time the judges' salaries are paid and shall be in addition to all salary, compensation or allowances heretofore prescribed by law for such judges."

Section 3. This Act shall become effective September 1, 1971.

Approved September 2, 1971.

Time: 3:55 P.M.

Act No. 755

H. 934—Crowe

AN ACT

To amend further the title and Section 1 of Act No. 486, H. 944, Regular Session 1957 (Acts 1957, p. 670) as last amended, which provides further for paid leaves of absence for certain employees of certain counties clasified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 486, H. 944, Regular Session 1957 (Acts 1957, p. 670) as last amended, is amended to read as follows:

"An Act to provide further for paid leaves of absence for certain employees of counties having a population of not less than 55,500 nor more than 56,500 inhabitants, according to the last or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 486, H. 944, is amended to read as follows:

"Section 1. In all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census, the board of revenue, court of county commissioners or other like governing body shall have the power and authority to grant vacation leave of absence or sick leave, with pay, to employees of the county in addition to any vacation leave of absence or sick leave heretofore provided by law. Such vacation leave of absence or sick leave shall be granted in accordance with the time the governing body of the county designates, but each county employee can combine his two weeks of vacation leave with his seven days sick leave which is granted annually by the county and may use the total three weeks leave as a vacation or as sick leave. Sick leave shall be granted without submission of a doctor's certificate to verify sickness. Neither vacation or sick leave shall be accumulated from year to year."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:09 P.M.

Act No. 756

H. 935—Crowe

AN ACT

To amend the title and Section 1 of Act No. 101, H. 99, Regular Session 1967 (Acts 1967, p. 440), which authorizes the sheriff to issue permits for the movement of certain sized houses and objects in certain counties clasified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 101, H. 99, Regular Session 1967 (Acts 1967, p. 440), is amended to read as follows:

"An Act Relating to all counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, authorizing the sheriff to issue permits for the movement of certain sized houses and objects along county roads, through municipalities and across state roads under certain conditions."

Section 2. Section 1 of said Act No. 101, H. 99, is amended to read as follows:

"Section 1. This Act shall apply in and only in counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:10 P.M.

Act No. 757

H. 937—Crowe

AN ACT

To amend the title and Section 1 of Act No. 199, H. 228, Special Session 1967 (Acts 1967, p. 245), which fixes the compensation of the secretary of the district attorney in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 199, H. 228, Special Session 1967 (Acts 1967, p. 245), is amended to read as follows:

“An Act To apply only in counties having populations of not less than 55,500 nor more than 56,500; fixing the compensation of the secretary of the district attorney of any such county.”

Section 2. Section 1 of said Act No. 199, H. 228, is amended to read as follows:

“Section 1. In all counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, the secretary of the district attorney shall be entitled to receive a monthly salary of \$380, to be paid from the general funds of the county.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:11 P.M.

Act No. 758

H. 938—Crowe

AN ACT

To amend the title and Section 1 of Act No. 44, H. 179, Second Special Session 1965 (Acts 1965, p. 64), which provides additional allowances for the tax collectors of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 44, H. 179, Second Special Session 1965 (Acts 1965, p. 64), is amended to read as follows:

“An Act To apply only in counties having populations of not less than 55,500 nor more than 56,500; providing additional allowances for the tax collectors of such counties.”

Section 2. Section 1 of said Act No. 44, H. 179, is amended to read as follows:

“Section 1. In all counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census, the tax collector shall be entitled to receive the sum of \$1,000 for clerk hire, which shall be paid from the county treasury immediately upon his requisition. The payment provided for in this Act is in addition to all other allowances provided by law.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:12 P.M.

Act No. 759

H. 939—Crowe

AN ACT

To amend the title and Section 1 of Act No. 928, H. 1339, Regular Session 1969 (Acts 1969, p. 1667), which provides compensation for the clerk of the intermediate court and for the secretary of the district attorney in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 928, H. 1339, Regular Session 1969 (Acts 1969, p. 1667), is amended to read as follows:

“An Act Relating to counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census; to provide for the compensation of the clerk of the intermediate court if there is such a court in such counties; and to provide further for the compensation of the secretary of the district attorney of the district containing any such counties; and to repeal conflicting laws.”

Section 2. Section 1 of said Act No. 928, H. 1339, is amended to read as follows:

“Section 1. In all counties having populations of not less than 55,500 nor more than 56,500, according to the most recent

federal decennial census, where there is an intermediate court the clerk of the intermediate court shall be entitled to a salary of four hundred dollars (\$400) per month to be paid from the general funds of the county, and the secretary of the district attorney of the circuit containing any such county or counties shall, in addition to any salary and other compensation prescribed by law, also be entitled to an additional salary of six hundred dollars (\$600) per annum to be paid in equal monthly installments out of the general fund of the county."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:13 P.M.

Act No. 760

H. 941—Crowe

AN ACT

To amend the title and Section 1 of Act No. 181, H. 344, Regular Session 1961 (Acts 1961, p. 222), which empowers county governing bodies to pay county employees their regular wage or salary while sick or unable to work but not to exceed ten days per annum in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 181, H. 344, Regular Session 1961 (Acts 1961, p. 222), is amended to read as follows:

"An Act To provide that the county governing bodies in all counties having populations of not less than 55,500 nor more than 56,500 be authorized and empowered in their discretion to pay each employee of such counties employed by the county governing body of any such county, at the rate of his regular daily wage or salary, during the time that such employee is sick or ill or unable to work. Provided, however, no such employee shall be paid for more than ten days' time in the aggregate during any one calendar year in which he is unable to work on account of sickness or illness."

Section 2. Section 1 of said Act No. 181, H. 344, is amended to read as follows:

"Section 1. This Act shall apply only in counties having populations of not less than 55,500 nor more than 56,500, according to the 1970 or any subsequent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:14 P.M.

Act No. 761

H. 942—Crowe

AN ACT

To amend the title and Section 1 of Act No. 182, H. 345, Regular Session 1961 (Acts 1961, p. 223), which provides for payment, additional duties, office space, equipment, furniture, supplies, and services of coroners of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 182, H. 345, Regular Session 1961 (Acts 1961, p. 223), is amended to read as follows:

“An Act To apply in all counties having populations of not less than 55,500 nor more than 56,500; providing for the payment of salaries to coroners, prescribing additional duties for coroners, fixing their compensation, providing for the payment thereof, authorizing and directing the county governing body in each such county to provide the coroner with office space, certain equipment, furniture, supplies and services at the expense of the county; superseding and expressly repealing Act No. 433, H. 638, approved July 6, 1945 (General Acts of Alabama 1945, p. 679), Act No. 442, H. 935, approved August 23, 1949 (Acts of Alabama 1949, p. 651), Act No. 222, H. 680, approved August 8, 1955 (Acts of Alabama 1955, vol. I, p. 532) and Act No. 654, H. 1049, approved September 20, 1957 (Acts of Alabama 1957, vol. II, p. 996).”

Section 2. Section 1 of said Act No. 182, H. 345, is amended to read as follows:

“Section 1. This Act shall apply in all counties having populations of not less than 55,500 nor more than 56,500, according to the 1970 or any subsequent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 2, 1971.

Time: 4:00 P.M.

Act No. 762

H. 944—Crowe

AN ACT

To further amend the title and Section 1 of Act No. 463, H. 986, approved September 9, 1955 (Acts 1955, p. 1053), as last amended, which

relates to the territorial limits of the police jurisdiction outside the corporate limits of cities in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 463, H. 986, approved September 9, 1955 (Acts 1955, p. 1053), as last amended, is amended to read as follows:

“An Act relating to cities and towns in counties having populations of not less than 55,500 nor more than 56,500 inhabitants, according to the 1970 or any subsequent federal decennial census; providing that the territorial limits of the police jurisdiction outside the corporate limits of any such city or town shall not be extended or changed by altering, extending, or rearranging the boundary lines or corporate limits of the city or town through the annexation of adjoining territory.”

Section 2. Section 1 of said Act No. 463, H. 986, is amended to read as follows:

“Section 1. This Act shall apply only to cities and towns in counties having populations of not less than 55,500 nor more than 56,500 inhabitants, according to the 1970 or any subsequent federal decennial census.”

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:15 P.M.

Act No. 763

H. 945—Crowe

AN ACT

To amend the title and Section 1 of Act No. 139, H. 337, Regular Session 1961 (Acts 1961, p. 177), which fixes the time of holding meetings of the county governing bodies of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 139, H. 337, Regular Session 1961 (Acts 1961, p. 177), is amended to read as follows:

“An Act To fix the time of holding meetings of the court of county commissioners, board of revenue, or other like gov-

erning body in all counties having populations of not less than 55,500 nor more than 56,500."

Section 2. Section 1 of said Act No. 139, H. 337, is amended to read as follows:

"Section 1. The court of county commissioners, board of revenue, or other like governing body of every county having a population of not less than 55,500 nor more than 56,500, according to the 1970 or any subsequent federal decennial census, shall hold regular meetings of the governing body on Wednesday of each week between the hours of one o'clock p.m. and four-thirty p.m."

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:16 P.M.

Act No. 764

H. 946—Crowe

AN ACT

To amend the title and Section 1 of Act No. 308, H. 566, Regular Session 1965 (Acts 1965, p. 424), which provides an expense allowance for the coroners of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 308, H. 566, Regular Session 1965 (Acts 1965, p. 424), is amended to read as follows:

"An Act Relating to counties having populations of not less than 55,500 nor more than 56,500; to provide for the payment of an expense allowance to coroners of such counties."

Section 2. Section 1 of said Act No. 308, H. 566, is amended to read as follows:

"Section 1. The coroner in any county in Alabama having a population of not less than 55,500 nor more than 56,500 inhabitants according to the most recent federal decennial census shall receive, in addition to all other compensation heretofore provided by law, an allowance of one hundred dollars (\$100) per month for expenses incurred by him in performing the duties of his office. Such allowance shall be paid from the general fund of the county on warrants drawn as prescribed by law."

Section 3. This Act shall become effective September 1, 1971.

Approved September 2, 1971.

Time: 3:50 P.M.

Act No. 765

H. 948—Crowe

AN ACT

To amend the title and Section 1 of Act No. 61, S. 128, Special Session 1964 (Acts 1964, p. 84), which fixes and regulates the payment of the fees of jurors in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 61, S. 128, Special Session 1964 (Acts 1964, p. 84), is amended to read as follows:

“An Act To apply in all counties having populations of not less than 55,500 nor more than 56,500, fixing and regulating the payment of the fees of jurors.”

Section 2. Section 1 of said Act No. 61, S. 128, is amended to read as follows:

“Section 1. In all counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, regular jurors, grand and petit, are entitled to \$10 for each day's service, five cents for each mile traveled in going to and returning from court, and ferriage and toll, to be proved by the oath of the juror before the clerk of the court. The clerk shall give each juror a certificate, stating therein the number of days he has served, the number of miles he has traveled, the amount of ferriage and toll he has paid, and the amount of compensation to which he is entitled.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:17 P.M.

Act No. 766

H. 949—Crowe

AN ACT

To further amend the title and Section 1 of Act No. 681, S. 291, Regular Session 1965 (Acts 1965, p. 1243), which provides further for the payment and retirement of certain claims against the fine and forfeiture funds of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 681, S. 291, Regular Session 1965 (Acts 1965, p. 1243), is amended to read as follows:

“An Act To provide further for the payment and retirement of certain claims against the fine and forfeiture funds of counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census.”

Section 2. Section 1 of said Act No. 681, S. 291, is amended to read as follows:

“Section 1. This Act shall apply only in all counties in this state having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:18 P.M.

Act No. 767

H. 951—Crowe

AN ACT

To amend further the title and Section 1 of Act No. 221, H. 140, approved August 8, 1955 (Acts 1955, p. 531), as last amended, which relates to the power, authority, and jurisdiction of courts pursuant to final judgment upon bail bonds or undertakings in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 221, H. 140, approved August 8, 1955 (Acts 1955, p. 531), as last amended, is amended to read as follows:

“An Act to define the power, authority and jurisdiction of the courts in proceedings on forfeitures of undertakings, or bail bonds, by the failure of the defendant to appear as required, in all counties in the State having populations of not less than 55,500 nor more than 56,500 inhabitants according to the 1970 or any subsequent federal decennial census; and to authorize the courts in such counties to remit in whole or in part the penalty of such bail bonds as the ends of justice may appear to require.”

Section 2. Section 1 of said Act No. 221, H. 140, is amended to read as follows:

"Section 1. In all counties in this State having populations of not less than 55,500 nor more than 56,500 inhabitants, according to the 1970 or any subsequent federal decennial census, all state, county, or municipal courts shall have full power and jurisdiction in all proceedings conducted pursuant to the provisions of Chapter 9, Title 15, Code of Alabama (1940), pursuant to the rendering of any final judgment upon any forfeiture of any undertaking, or bail bond, to consider the cause of the default and all the circumstances in connection therewith, including the excessiveness of the penalty, if any, and upon giving consideration thereto, shall have jurisdiction to remit the whole of the penalty of such bail bond, or undertaking, or any part thereof, and to render final judgment against the sureties appearing upon such bail bond or undertaking for such part of the penalty prescribed by such bail bond or undertaking as the ends of justice may require."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:19 P.M.

Act No. 768

H. 952—Crowe

AN ACT

To further amend the title and Section 1 of Act No. 461, H. 984, approved September 9, 1955 (Acts 1955, p. 1051), as last amended, which relates to the exemption of purchases of medical, surgical, and hospital supplies from any system of competitive bidding in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 461, H. 984, approved September 9, 1955 (Acts 1955, p. 1051), as last amended, is amended to read as follows:

"An Act relating to counties having populations of not less than 55,500 nor more than 56,500 inhabitants, according to the 1970 or any subsequent federal decennial census; exempting purchases of medical, surgical, and hospital supplies from any system of competitive bidding now or hereafter provided by law for any such county, or any office, department, board, agency, or institution thereof."

Section 2. Section 1 of said Act No. 461, H. 984, is amended to read as follows:

"Section 1. This Act shall apply only to counties having populations of not less than 55,500 nor more than 56,500 inhabitants, according to the 1970 or any subsequent federal decennial census."

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective September 1, 1971.

Approved September 1, 1971.

Time: 3:20 P.M.

Act No. 769 H. 702—Roberts, Erdreich, Boutwell, Grainger, Doss, Burgess, Merrill, Cauthen, Benton, Kinsey, Barkett, Agee, Chesnut, King, Downing, Crowe, Lutz, Ellis, Carnes, Bank, Hobbie, Culver, Easters, Stewart, Edwards, Nettles, Cottingham, Lang, Hearn, Baker, Owens, Turner, Cross, Slate, Naramore, Coshatt, Grey (D), Mims, Brassell, Reid (R), Jones (F), Adams, Falkenburg, St. John, Timmons, Stokes, Stubbs, Headley, Reed (T), Gray (F), Flippo, Hill, Goodwin, Wynot, Hale, Wood, Taylor, Harris Drake, Turnham, Gloor

AN ACT

To provide for the regulation, control, abatement and prevention of air pollution in the State of Alabama; to provide for a declaration of purpose and policy relative to air quality; to provide for definitions; to establish an air pollution control commission; to provide for the establishment of rules and regulations to promote the purposes of this Act; to provide the powers and duties of the air pollution control commission; to provide the procedures for adopting rules and regulations relative to the purposes of this Act; to provide for emergency procedures in the event of a threat to human health or safety; to provide penalties for violations of this Act; to provide for the enforcement of the rules and regulations relative to the purposes of this Act; to provide for variances; to provide for the establishment of local air pollution control programs; to repeal Act No. 1135, Acts of Alabama, Regular Session, 1969, page 2100, establishing the Alabama Air Pollution Control Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall be known and may be cited as the "Alabama Air Pollution Control Act of 1971."

Section 2. Declaration of Policy and Purpose.

(a) It is hereby declared to be the public policy of this State and the purpose of this Act to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the social development of this State and facilitate the enjoyment of the natural attractions of this State.

(b) It is also declared that local air pollution control programs are to be provided for to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

(c) To these ends it is the purpose of this Act to provide for a coordinated state-wide program of air pollution prevention, abatement and control; to facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions; and to provide a framework within which all values may be balanced in the public interest.

Section 3. Definitions. As used in this Act, the following words and terms shall have the following meanings:

(a) "Air Pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property, or would interfere with the enjoyment of life or property throughout the State and in such territories of the State as shall be affected thereby.

(b) "Air Contaminant" means any solid, liquid, or gaseous matter, any odor, or any combination thereof, from whatever source.

(c) "Commission" means the Air Pollution Control Commission of the State of Alabama established by this Act.

(d) "Person" means the State, any individual, partnership, firm, association, municipality, public or private corporation or institution, political subdivision or agency of the State, including any Environmental Improvement Authority established pursuant to Act No. 1117, Regular Session of 1969 (Gen. Acts 1969, p. 2060), any trust, estate, or any other legal entity and any successor, representative, agent, or agency of the foregoing, the United States or any department, agency, or instrumentality of the executive, legislative or judicial branches of the Federal Government.

(e) "Emission" means a release into the outdoor atmosphere of air contaminants.

(f) "Director" means the Director of the Division of Air Pollution Control of the Department of Public Health which Division is established by this Act.

Section 4. The Air Pollution Control Commission.

(a) There is hereby created a Division of Air Pollution Control, hereinafter referred to as "the Division" in the Department of Health. The Department of Health shall administer this Act through the Division which shall be headed by a Director appointed by the commission in accordance with the Merit System laws of this State; provided that rules and regulations required or authorized to be made pursuant to this Act shall be made, amended and repealed by the Air Pollution Control Commission established pursuant to subsection (b) of this Section.

(b) There is hereby created the Air Pollution Control Commission, hereinafter referred to as "the Commission." The members of the Commission shall be as follows:

(1) The State Health Officer throughout his term of office as State Health Officer and until the appointment and qualification of his successor as such officer;

(2) Six members to be appointed by the Governor, provided however, that the initial Commission members must be appointed on or before October 1, 1971, said appointments to be made with the advice and consent of the Senate, as follows;

(i) Four members who shall be representative of the public;

(ii) One member shall be a registered professional engineer and shall be educated and experienced in matters of air pollution measurement and control; and

(iii) One member who shall be a licensed physician and shall be educated and experienced in lung and respiratory diseases and related diseases resulting from air pollution or air contaminants.

(c) No person shall be eligible to serve as a member of the Commission who is an officer, employee or agent, or who is a stockholder owning 7.5 per cent or more of the voting stock of any corporation or organization holding a permit from the Commission for the discharge of air contaminants into the atmosphere, or who is an officer, employee, or agent of any trade association which represents a corporation or organization holding a permit from the Commission for the discharge of air contaminants into the atmosphere. One of the six members appointed by the Governor shall serve for a term of four years, two for a term of three years, two for a term of two years

and one for a term of one year, and the Governor shall designate at the time of making such appointments the length of the term each member shall serve. At the expiration of the terms of all members initially appointed, their successor shall be appointed by the Governor for terms of four years and shall be selected in the same manner as the first members. If a vacancy occurs in the appointed membership, and upon certification thereof by the Commission, the Governor shall fill such vacancy for the unexpired term in accordance with the procedure prescribed herein. When a Commission member is appointed during a period when the Legislature is not in session to advise and consent, such appointee shall have the full power of the office until and unless the Senate, upon the reconvening of the Legislature, shall, by affirmative vote, refuse to consent in such appointment.

(d) The State Health Officer shall serve as Chairman of the Commission. The Commission shall elect from its membership a Vice Chairman. All members of the Commission shall be voting members. The Chairman and Vice Chairman shall vote on matters before the Commission as other members.

(e) No salary or compensation shall be paid any member of the Commission for services thereon, but this provision shall not be construed to affect in any way the regular compensation of members who are also governmental employees, their services on the Commission being considered a part of their official duties. Actual and necessary travel, subsistence and other expenses, incurred by members in the discharge of their duties as members of the Commission and as directed or requested by the Commission, shall be paid at the rate allowed other State employees as provided by law from funds which are or may become available for the purpose of this Act.

(f) The Commission shall meet regularly in each calendar quarter of each year, at times and places to be fixed by the Commission. Special meetings may be called at the discretion and upon call of the Chairman and special meetings shall be called by him up written request of any three members to take up any matters within the jurisdiction of the Commission. To the extent possible, all members shall be notified of the time and place of any regular or special meeting.

(g) Four voting members of the Commission shall constitute a quorum for the transaction of Commission business in both regular and special meetings. No member may designate by proxy or otherwise an alternate representative to attend any meeting of the Commission. The Director, or his representative, shall attend all meetings but shall have no voting power.

(h) The Commission shall keep a complete and accurate record of the proceedings of all its meetings, a copy of which

shall be kept on file in the office of the Director and open to public inspection.

(i) The Commission may employ and compensate within appropriations available therefor; consultants and such assistants and employees as may be necessary to carry out the provisions of this Act and may prescribe their powers and duties. All personnel who are in the employ of or are assigned to the Air Pollution Control Commission upon the effective date of this Act shall, upon the effective date of this Act, become the employees of or assigned to the new Commission established herein. Employees of the Commission shall be employed in accordance with the State merit system.

(j) All of the matters pending before the Air Pollution Control Commission upon the effective date of this Act shall, upon the effective date of this Act, be transferred to the jurisdiction of the new Commission herein established, and all actions heretofore taken and jurisdiction heretofore exercised by the Air Pollution Control Commission shall be considered in all respects as having been acts of the new Commission established herein. All books, records, equipment, facilities, funds allocated to or in its possession (including unexpended appropriations), notes and accounts receivable and all other property of every kind whatsoever of the Air Pollution Control Commission upon the effective date of this Act shall, upon the effective date of this Act, be transferred to, vest in and become the property of the new Commission established herein, and all contracts, leases, debts, obligations and liabilities of every kind whatsoever of the Air Pollution Control Commission upon the effective date of this Act shall, upon the effective date of this Act, be transferred to, inure to the benefit of and be binding upon the new Commission established herein, it being the intent of this Act that the new Commission established herein supersede and replace, but continue all business and affairs of the Air Pollution Control Commission.

Section 5. Rules and Regulations. The Commission, pursuant to procedures prescribed in Section 13 of this Act, may adopt regulations to promote the purposes of this Act. Without limiting the generality of this authority, such regulations may among other things prescribe:

(a) Ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various air contaminants in the atmosphere;

(b) Emission standards specifying the maximum amounts or concentrations of air contaminants that may be discharged into the atmosphere;

(c) Standards and conditions regarding the sale, offer, or use of any fuel, or other article determined to constitute an air pollution hazard, or which could constitute an air pollution hazard;

(d) Alert and abatement standards relative to air pollution episodes or emergencies constituting an acute danger to health or to the environment;

(e) Requirements and procedures for the inspection of any equipment, facility, vehicle, vessel, or aircraft that may cause or contribute to air pollution;

(f) Requirements for making reports containing information as may be required by the Commission concerning location, size and height of contaminant outlets, processes employed, fuels used and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution.

(g) Effective and application dates, however, unless otherwise specified by the Commission, all rules, regulations, standards, requirements, procedures, orders, resolutions, prohibitions, amendments thereto, or repeal thereof, shall become effective and applicable upon adoption by the Commission.

Section 6. Other Powers and Duties of the Commission. In addition to other powers conferred on it by law, the Commission shall have power to:

(a) Hold hearings relating to any aspect of or matter in the administration of this Act, and in connection therewith, compel the attendance of witnesses and the production of evidence, through subpoena as hereinafter provided.

(b) Issue such orders as may be necessary to effectuate the purposes of this Act and enforce the same by all appropriate administrative and judicial proceedings.

(c) Require access to records relating to emissions which cause or contribute to air contamination.

(d) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

(e) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this State.

(f) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this Act.

(g) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.

(h) Determine by means of field studies and sampling the degree of air contamination and air pollution in the State and the several parts thereof.

(i) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this State and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto.

(j) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(k) Advise, consult, contract and cooperate with other agencies of the State, local governments, industries, other states, interstate or interlocal agencies, and the Federal Government, and with interested persons or groups.

(l) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problem which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this Act, rules and regulations in force pursuant thereto, or any other provision of law.

(m) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the Federal Government, for the purpose of carrying out any of the functions of this Act. Such funds received by the Commission pursuant to this section shall be deposited in the State Treasury to the account of the Commission. In addition to the authority to accept, receive and administer grants or other funds from the Federal Government, the Commission is hereby designated as the State Air Pollution Control Agency for the purposes of the Federal Clean Air Act, as amended, Public Law 90-148, or any amendments thereto.

(n) Provide for the performance by its officers and employees, in the name of the Commission, of any act or duty necessary or incidental to the administration of this Act.

(o) Provide for the establishment of advisory committees, appointment of the membership of such committees, scope of investigation, and other duties, of such committees. The period of duration such committees and the terms of members of such committees shall be established by the Commission. No salary or compensation shall be allowed any member of such committees for services thereon. Actual and necessary travel subsistence, and other expenses incurred by members of such committees

in the discharge of their official duties as members of such committees and when approved by the Chairman or the Director, by direction of the Commission, shall be paid at the rate allowed other State employees as provided by law from any funds which are or may become available for the purpose of this Act.

Section 7. Monitoring and Reporting.

The Commission may require the owner or operator of any air contaminant source to establish the maintain such records; make such reports; install, use and maintain such monitoring equipment or methods; sample such emissions in accordance with such methods, at such locations, intervals and procedures as the Commission shall prescribe; and provide such other information as the Commission reasonably may require.

Section 8. Additional Control Measures.

(a) The Commission may require that notice be given to the Director prior to the undertaking of the construction, installation or establishment or particular types or classes of new air contamination sources specified in its rules and regulations. Within fifteen days of its receipt of such notice, the Director may require, as a condition precedent to the construction, installation or establishment of the air contaminant source or sources covered thereby, the submission of plans, specifications and such other information as it deems necessary in order to determine whether the proposed construction, installation or establishment will be in accord with applicable rules and regulations in force pursuant to this Act. If within sixty days of the receipt of plans, specifications or other information required pursuant to this Section the Director determines that the proposed construction, installation or establishment will not be in accord with the requirements of this Act or applicable rules and regulations, he shall issue an order prohibiting the construction, installation or establishment of the air contaminant source or sources. Failure of such an order to issue within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed; provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted.

(b) In addition to any other remedies available on account of the issuance of an order prohibiting construction, installation or establishment, and prior to invoking any such remedies, the person or persons aggrieved thereby shall; upon request in accordance with rules of the Commission, be entitled to a hearing on the order. Following such hearing, the order may be affirmed, modified or withdrawn.

(c) For the purposes of this Act, addition to or enlargement or replacement of an air contaminant source, or any major

alteration therein, shall be construed as construction, installation or establishment of a new air contaminant source.

(d) Any features, machines and devices constituting parts of or called for by plans, specifications or other information submitted pursuant to subsection (a) hereof shall be maintained in good working order.

(e) Nothing in this Section shall be construed to authorize the Commission to require the use of machinery, devices or equipment from a particular supplier or produced by a particular manufacturer, if the required performance standards may be met by machinery, devices or equipment otherwise available.

(f) The absence or failure to issue a rule, regulation or order pursuant to this Section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

(g) The Commission by rule or regulation may prescribe and provide for the payment and collection of reasonable fees for the review of plans and specifications required to be submitted pursuant to this Section. All such fees when collected shall be deposited in the State Treasury to the account of the Division of Air Pollution Control of the State Department of Health.

Section 9. Inspections.

(a) Any duly authorized officer, employee, or representative of the Department may enter and inspect any property, premises or place on or at which an air contaminant source is located or is being constructed, installed or established at any reasonable time for the purpose of ascertaining the state of compliance with this Act and rules and regulations in force pursuant thereto. No person shall refuse entry or access to any authorized representative of the Department who requests entry for purposes of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

(b) The Department may conduct tests and take samples of air contaminants, fuel, process material or other material which affects or may affect emission of air contaminants from any source. Upon request of the Department, the person responsible for the source to be tested shall provide necessary holes in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants. If an authorized employee of the

Department during the course of an inspection obtains a sample of air contaminant, fuel, process material, or other material, he shall give the owner or operator of the equipment or fuel facility a receipt for the sample obtained.

Section 10. Emission Control Requirements. —

The Commission may establish such emission control requirements, by rule or regulation, as in its judgment may be necessary to prevent, abate, or control air pollution. Such requirements may be for the State as a whole or may vary from area to area, as may be appropriate to facilitate accomplishment of the purposes of this Act, and in order to take account of varying local conditions.

Section 11. Emergency Procedure. —

(a) Any other provisions of law to the contrary notwithstanding, if the Director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, the Director shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants, and such order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the Commission. Not more than twenty-four hours after the commencement of such hearing, and without adjournment thereof, the Commission shall affirm, modify or set aside the order of the Director.

(b) In the absence of a generalized condition of air pollution of the type referred to in subsection (a), but if the Director finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of Section 9 of this Act. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsection (a) shall apply.

(c) Nothing in this Section shall be construed to limit any power which the Governor or any other officer may have to declare an emergency and act on the basis of such declaration, if such power is conferred by statute or constitutional provision, or inheres in the office.

(d) In addition to, and without in any way limiting the foregoing, if the State Health Officer, in his capacity as Chairman of the Commission, or any three members of the Commission, determines at any time that air pollution, in any county, locality, place or other area in the State constitutes an emer-

gency risk to the health of those present within said area of the State, and that the resources of the Commission are not sufficient to abate said air pollution, such determination shall be communicated in writing, with the factual findings on which such determination is based, to the Governor, the State Health Officer may delegate in writing to any employee of the Commission the power to make such determination and deliver the same to the Governor in the absence of the State Health Officer from the State. Upon being so advised the Governor shall by proclamation declare, as to all or any part of said area mentioned in the aforesaid determination, that an air pollution emergency exists, and upon making such declaration the Governor shall have the following powers which he may exercise in whole or in part by the issuance of an order or orders:

(1) To prohibit, restrict or condition motor vehicle travel of every kind, including trucks and buses, in the area;

(2) To prohibit, restrict or condition the operation of retail, commercial, manufacturing, industrial, or similar activity in the area;

(3) To prohibit, restrict or condition operation of incinerators in the area;

(4) To prohibit, restrict or condition the burning of other consumption of any type of fuel in the area;

(5) To prohibit, restrict or condition the burning of any materials whatsoever in the area;

(6) To prohibit, restrict or condition any and all other activity in the area which contributes or may contribute to the air pollution emergency;

(e) The declaration by proclamation of the Governor of an air pollution emergency and any order issued by the Governor pursuant to such declaration shall be given maximum publicity throughout the State.

f) Any gubernatorial order may be amended or modified by further gubernatorial orders. Said order or orders shall not require any judicial or other order or confirmation of any type in order to become immediately effective as the legal obligation of all persons, firms, corporations and other entities within the State. Said order shall remain in effect for the duration of time set forth in same, and if no time limit is specified in said order, same shall remain in effect until the Governor declares by further proclamation that the emergency has terminated.

(g) The aforesaid orders of the Governor shall be enforced by the State and County Departments of Health, the State

and local police, Commission personnel, the Alabama National Guard if same is authorized in the Governor's order, and such other persons or agencies as may be designated by the Governor. Those enforcing any Governor's order shall require no further authority or warrant in executing same than the issuance of the order itself. Those authorized to enforce said orders may use such reasonable force as is required in the enforcement thereof, and may take such reasonable steps as are required to assure compliance therewith including, but without limiting the generality of the foregoing, the following:

(1) Entering any property or establishment whatsoever, commercial, industrial, or residential believed, on reasonable cause, to be violating said order (excepting single or double family homes or any dwelling unit within a multiple dwelling unit larger than a double family home) and, if a request does not produce compliance, causing compliance with said order;

(2) Stopping, detouring, rerouting, and prohibiting motor vehicle travel and traffic;

(3) Disconnecting incinerator or other types of combustion facilities;

(4) Terminating all burning activities;

(5) Closing down or restricting the use of any business, commercial, retail, manufacturing, industrial or other establishment.

Where any person authorized to enforce such an order believes on reasonable cause that same is being violated in a single or double family residence or within the dwelling portion of a larger multiple dwelling unit, said residence or dwelling portion thereof may be entered only upon obtaining a search warrant from any magistrate having power to issue same.

(h) Any person, firm or corporation or other entity aggrieved by any gubernatorial order upon application to the State Health Officer shall be granted a public hearing on the question of whether or not the continuance of any such order in whole or in part is unreasonable in the light of the then prevailing conditions of air pollution, the contribution to the same of any particular activity, and the purposes of this Act. Said public hearing shall be conducted as quickly as possible by said State Health Officer or his delegate who shall give public notice of same. The State Health Officer or his delegate shall have the power to compel attendance, testimony, and the production of documents by the use of subpoena powers. The number of witnesses and the extent of testimony shall be within his control. If the State Health Officer, upon conclusion of such hearing, determines that any such order should be terminated, or

modified in any way whatsoever, he shall report such findings and recommendations to the Governor for such action as he deems appropriate.

Section 12. Variances.

(a) The Commission may grant individual variances beyond the limitations prescribed in this Act, whenever it is found, upon presentation of adequate proof, that compliance with any rule or regulation, requirement or order of the Commission would impose serious hardship without equal or greater benefits to the public, and the emissions occurring or proposed to occur do not endanger or tend to endanger human health or safety, human comfort, and aesthetic values. In granting or denying a variance the Commission shall file and publish a written opinion stating the facts and reasons leading to its decision.

(b) In granting a variance the Commission may impose such conditions as the policies of this Act may require. If the hardship complained of consists solely of the need for a reasonable delay in which to correct a violation of this Act or of the Commission regulations, the Commission shall condition the grant of such variance upon the posting of sufficient performance bond or other security to assure the correction of such violation within the time prescribed.

(c) Any variance granted pursuant to the provisions of this section shall be granted for such period of time, not exceeding one year, as shall be specified by the Commission at the time of the grant of such variance, and upon the condition that the person who receives such variance shall make such periodic progress reports as the Commission shall specify. Such variance may be extended from year to year by affirmative action of the Commission, but only if satisfactory progress has been shown.

(d) Any person seeking a variance shall do so by filing a petition for variance with the Commission, which shall promptly give notice of such petition in a newspaper of general circulation in the county in which the installation or property for which variance sought is located. The Director shall promptly investigate such petition, consider the views of persons who might be adversely affected by the grant of a variance, and make a recommendation to the Commission as to the disposition of the petition. If the Commission, in its discretion, concludes that a hearing would be advisable, or if any person files a written objection to the grant of such variance within 21 days, then a hearing shall be held, under the rules prescribed in Section 13 (b) of this Act, and the burden of proof shall be on the petitioner.

(e) If the Commission fails to take final action upon a variance request within 90 days after the filing of the petition, the petitioner may deem the request denied under this Act.

(f) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the Commissions; however, any person adversely affected by a variance or renewal granted by the Commission may obtain judicial review by filing notice of appeal with the Register in Chancery of the Circuit Court in Equity in the county where the pollution source is located within twenty days from the action of the commission thereon. The case shall be heard by the Court under the same rules and with the same requirements as a petition for injunction would be heard. On appeal, the Circuit Court shall grant said variance unless it finds the operation of the air contamination source in the manner allowed in the variance would amount to a private or public nuisance, or unless it finds that the Commission acted arbitrarily and capriciously.

Section 13. Adopting Rules and Regulations.

(a) No substantive regulations shall be adopted, amended, or repealed until after a public hearing. At least 20 days prior to the scheduled date of the hearing the Commission shall give notice of such hearing by public advertisement in a newspaper of general circulation in the area of the state concerned of the date, time, place and purpose of such hearing; and make available to any person upon request copies of the proposed regulations, together with summaries of the reasons supporting their adoption.

(b) Any public hearing relating to the adoption, amendment, or repeal of Commission regulations under this section shall be held before a hearing officer, who shall be designated by the Chairman. All such hearings shall be open to the public, and reasonable opportunity to be heard with respect to the subject of the hearing shall be afforded to any person. All testimony taken before the Commission shall be recorded stenographically. The transcript so recorded, and any written submissions to the Commission in relation to such hearings, shall be open to public inspection.

(c) After such hearing the Commission may revise the proposed regulations before adoption in response to testimony made at the hearing, without conducting a further hearing on the revisions.

(d) Any such regulations may make different provisions as required by circumstances for different contaminant sources and for different geographical areas; may apply to sources outside this State causing, contributing to, or threatening environ-

mental damage in Alabama; and may make special provision for alert and abatement standards and procedures respecting occurrences or emergencies of pollution or on other short-term conditions constituting an acute danger to health or to the environment. In promulgating regulations under this Act, the Commission shall take into account the purpose of the Act.

(e) Nothing in this Section shall be construed to require a hearing prior to the issuance of an emergency order pursuant to Section 11 of this Act.

Section 14. Confidentiality of Records.

Any records, reports or information obtained under this act shall be available to the public, except that upon a showing satisfactory to the Commission by any person that records, reports, or information, or particular part thereof, (other than emission data) to which the Commission has access if made public, would divulge production or sales figures or methods, processes or production unique to such person, or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the Commission shall consider such record, report, or information or particular portion thereof confidential in the administration of this Act.

Nothing herein shall be construed to prevent disclosure of such report, record or information to Federal, State, or local representatives as necessary for purposes of administration of any Federal, State or local air pollution control laws, or when relevant in any proceeding under this Act.

Section 15. Local Programs

(a) Except as provided herein, it is the intention of this Act to occupy by pre-emption the field of air pollution control within all areas of the State of Alabama. However, nothing herein shall be construed to limit or abrogate any private remedies now available to any person for the alleviation, abatement, control, correction, or prevention of air pollution or restitution for damage resulting therefrom.

(b) Subject to the provisions of this Section, each municipal governing body, which had municipal ordinances in effect on or before July 1, 1969, which pertain to air pollution control and which provide for the creation and establishment of an air pollution control board, and each county Board of Health shall have the authority to establish, and thereafter administer, within its jurisdiction a local air pollution control program, which:

(1) Provides, subject to subsection (d) by ordinance, regulation, or resolution, for requirements for the control or pre-

vention of air pollution consistent with, or more strict than, those imposed by this Act or the rules, regulations and standards promulgated by the Commission hereunder;

(2) Provides for the enforcement of such requirement by appropriate administrative and judicial process. Each such municipal governing body and each county Board of Health establishing a program hereunder is hereby authorized and required to advertise and adopt all rules and regulations in accordance with the same procedure provided herein for the adoption of said rules, regulations and standards by the Commission, and all judicial remedies provided by this Act shall be available and enforceable by such municipal governing body and by such county Board of Health: and

(3) Provides for administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its program. The Board of County Commissioners of each county, and the council or other governing body of each municipal governing body within the jurisdiction of a local air pollution control program established by a county Board of Health, is hereby authorized to appropriate such sums as it may determine necessary and desirable for the establishment, administration and enforcement of such a program.

(c) No county Board of Health shall have the authority to exercise air pollution control jurisdiction within the bounds of any incorporated municipality or the police jurisdiction thereof having an air pollution control program as herein before authorized.

(d) Any such municipal governing body and each county Board of Health may adopt and enforce any ordinance, regulation, or resolution requiring the control or prevention of air pollution as follows:

(1) Where any ordinance, regulation, or resolution is identical in substance to requirements for the control or prevention of air pollution imposed by this Act or the rules, regulations and standards promulgated by the Commission hereunder, then such ordinance, regulation, or resolution may be adopted and enforced without further approval of the Commission.

(2) Where any ordinance, regulation, or resolution provides for the control or prevention of air pollution regarding classes or types of sources or classes or types of air contaminants for which the Commission has not promulgated rules, regulations or standards applicable to such sources or air contaminants within the area of jurisdiction of the local air pollution control program of such municipal governing body or county Board of Health, then such ordinance, regulation, or resolution

may be adopted and enforced without further approval of the Commission.

(3) Where any ordinance, regulation, or resolution is adopted which provides for requirements for the control or prevention of air pollution for particular classes or types of sources or classes or types of air contaminants which requirements are more strict than those imposed by this Act or the rules, regulations and standards promulgated by the Commission hereunder which are applicable within the area of jurisdiction of the local air pollution control program of such municipal governing body or county Board of Health, then such ordinance, regulation, or resolution may not be enforced unless the Commission finds within 60 days of such adoption that such ordinance, regulation, or resolution is compatible with the purposes of this Act and with any comprehensive plan adopted by the Commission pursuant to Section 6 of this Act.

(4) Each such municipal governing body or county Board of Health shall notify the Commission of the adoption of any ordinance, regulation, or resolution requiring the control or prevention of air pollution and provide to the Commission a certified copy of such ordinance, regulation, or resolution within 15 days of such adoption.

(e) (1) If the Commission has reason to believe that a local air pollution control program established pursuant to subsection (b) is inadequate to prevent and control air pollution in the jurisdiction to which such program relates, or that such program is being administered in a manner inconsistent with the requirements of this Act, the Commission shall, on due notice, conduct a hearing on the matter.

(2) If, after such hearing, the Commission finds that such program is inadequate to prevent and control air pollution in the jurisdiction to which such program relates, that such program is not accomplishing the purposes of this Act, that such program is not adhering to the requirements of subsection (f), or that such program is being administered in a manner inconsistent with requirements of this Act, the Commission may preempt the local enforcement authority of such program.

(f) (1) Each municipal governing body or county board of health which has established and administers a local air pollution control program pursuant to this section shall submit to the Commission a detailed report of its activities during the previous year. Such annual report shall be submitted as of October 1 of each year. Such reports shall include, but not be limited to, information regarding:

(i) Ordinances and resolutions adopted or under consideration requiring control or prevention of air pollution; and administrative procedures followed in such adoption;

- (ii) Administrative organization;
- (iii) Staff, financial and other resources;
- (iv) Enforcement activities;
- (v) Emission inventories;
- (vi) Air quality monitoring systems and data;
- (vii) Progress and problems related to administration of the local air pollution control program; and,
- (vii) Any other information which the Commission may reasonably require.

(2) The Commission may also require special interim reports by such municipal governing body or county board of health regarding activities of its local air pollution control program.

(g) Nothing in this section shall be construed to prohibit the Commission from enforcing any provision of this Act or any rule or regulation issued thereunder, nor to supersede or oust the jurisdiction of the Commission in any matter.

Section 16. Motor Vehicle Trains, Boats, Ships, Airplanes, Rockets and all other self-propelled vehicles which may travel upon the land, waterways, or through the air in or above the State of Alabama Pollution

(a) As the state of knowledge and technology relating to the control of emissions from motor vehicles may permit or make appropriate, and in furtherance of the purposes of this Act, the Commission may provide by rules and regulations for the control of emissions from any class or classes of motor vehicles. Such rules and regulations may in addition, prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of such equipment and of such vehicles.

(b) (1) The Commission may establish standards and requirements providing for periodic inspections and testing of motor vehicles by the Commission to enforce compliance with this section.

(2) The Commission may establish reasonable fees for the inspection and testing of motor vehicles and provide by rules and regulations for the payment and collection of such fees.

(3) If, after inspecting and testing any motor vehicle, the Commission determines that such motor vehicle complies in every respect with rules, regulations, standards and require-

ments issued by the Commission pursuant to this section, the Commission shall attach to such vehicle in a clearly visible location a certificate of inspection and approval.

(c) (1) The Commission may suspend or revoke the certificate of inspection and approval of any motor vehicle not equipped with an air pollution control system or mechanism in good working order and adjustment as required by the rules and regulations of the Commission. The vehicle shall not thereafter be eligible for such certificate until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced or repaired and are in good working order.

(2) No motor vehicle shall be issued an official certificate of inspection and approval as required pursuant to this section, unless all features or equipment required in or on the motor vehicles for the purpose of controlling emissions therefrom have been inspected in accordance with the standards and testing techniques required by the Commission pursuant to sub-section (b) hereof and have been found to meet these standards.

(3) No person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any highway any motor vehicle unless the vehicle is equipped with an air pollution control system or mechanism in good working order and adjustment as required by rules and regulations of the Commission.

(4) When, and if, the Commission shall establish standards and requirements for periodic inspections and testing of motor vehicles pursuant to sub-section (b) hereof, no person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any highway any motor vehicle unless there is attached to such vehicle by the Commission a valid certificate of inspection and approval which has not been suspended or revoked.

(5) Failure to comply with subparagraphs (3) and (4) of this sub-section shall subject the driver or owner to a penalty as provided in this Act.

(d) The Commission, in its discretion, is hereby authorized to delegate any or all of the authority vested in it by this section to any agency or instrumentality of the state now or hereafter authorized to inspect motor vehicles for any purpose.

(e) As used in this section "motor vehicle" shall mean every self-propelled device in, or upon or by which any person or property is or may be transported or drawn upon a public highway.

Section 17. Penalties and Citations.

(a) Any person who violates any provision of this Act, or any regulation adopted by the Commission, or who violates any determination or order of the Commission pursuant to this Act, shall be liable to a penalty not to exceed \$10,000 for said violation and an additional penalty not to exceed \$10,000 for each day during which violation continues, which may be recovered by the Commission in a civil action in the Circuit Court, and such person may be enjoined from continuing such violation.

(b) Any money so recovered shall be deposited in the State Treasury to the account of the Commission.

(c) It shall be the duty of the Attorney General of the State, or of the District Attorney of the Judicial Circuit under his direction, to bring such actions, in the Circuit Court at the request of the Commission in the name of the State of Alabama. Prosecution may also be commenced under this section by the Commission.

(d) Any person who knowingly violates or fails or refuses to obey or comply with this Act or any rule or regulation adopted thereunder or knowingly submits any false information under this Act or any rule or regulation thereunder shall be guilty of a misdemeanor and upon conviction may be sentenced to hard labor for the county for not more than one year.

(e) The Commission may, by rule or regulation, authorize the Director to issue citations to any person violating this act, or any rule or regulation of the Commission, commanding said person to cease and desist from violating this act, or any rule or regulation adopted pursuant to this act. The citation shall specify the provision of this act, or rule, or regulation alleged to be violated and shall specify, generally, the facts alleged to constitute a violation thereof. Said citation shall command the person to appear at a hearing in person, or by attorney, at a time and place specified before the Commission and show cause why a prosecution for the violation of this act, or of any rule or regulation of the Commission, should not be commenced. No citation shall be issued for an appearance before the Commission on a date less than ten days next after the issuance thereof, except when an emergency air episode has been declared, in which case appearance may be required within twenty-four hours. The citation may be directed to a business or corporation, or to the president, manager, superintendent, or other person in charge of the business or corporation. The citation may be executed by leaving a copy thereof at any office of the business or corporation, or by leaving a copy with some person at said

office or at the residence of the president, manager, superintendent, or other person in charge.

(f) The issuance of a citation shall not be a condition precedent to the beginning of a prosecution under the sections (a) & (b) hereof, however, where a citation has been issued the accused shall be afforded an opportunity to be heard upon said citation before any prosecution is commenced hereunder. At the conclusion of the hearing on the citation, the Commission may cause a prosecution to be commenced for said violation in which case the Chairman, Director, or any member of the Commission shall appear before a magistrate authorized to take oath and issue warrants of arrest for State law in the county where the air contaminant source is located and make affidavit setting out the finding of the Commission. The magistrate shall forthwith issue a warrant of arrest for the party charged commanding any sheriff or any officer of the State authorized by State law to execute warrants of arrest for violation of State law to arrest the defendant and forthwith bring him before him. The warrant shall be returnable to the Circuit Court of the county where the air contamination source is located. The Commission shall not cause a prosecution to be commenced if it finds that the proximate cause of the alleged violation was not the fault of the alleged defender.

(g) The testimony taken at any hearing may be under oath and may be recorded stenographically, but the parties shall not be bound by the strict rules of evidence prevailing in the courts of law and equity. True copies of any transcript and of any other record made of or at such hearing shall be furnished to any party hereto upon request and at his expense.

(h) Any hearing required by this Act to be held before the Commission shall be held before a hearing officer designated by the Chairman who shall have power to subpoena witnesses and compel their attendance, administer oaths and require the production for examination of any books or papers relating to any matter under investigation in any such hearing. The hearing officer, at the request of any interested person, may subpoena and compel the attendance of such witnesses as such person may designate and require the production for examination of any books or papers relating to any matter under investigation in any such hearing.

(i) Any duly designated employee of the Commission, including any hearing officer, may administer oath to witnesses and may conduct hearings or investigations and any such duly designated employee of the Commission may sign and issue subpoenas requiring persons to appear before him or the Commission and the Commission, through its designated officers,

shall have the power to serve said subpoenas upon any such person by sending a copy of such subpoena through the United States mail, postage prepaid, which said mail shall be registered with return receipt attached and such service shall be complete when said registered mail shall be delivered to said person and such receipt returned to the Commission or its designated employee, signed by the person sought to be subpoenaed. Obedience to a subpoena issued by the Commission or any person authorized and designated by the Commission to issue said subpoena may be enforced by application to any judge of the Circuit Court of the county in which said subpoena was issued or to the judge of any Circuit Court in which such person subpoenaed resides in the same manner as is provided by law for the grand jury of a county to enforce its subpoenas and with the same penalty as provided therefor for the failure of any person failing or refusing to comply with such subpoena.

(j) The State Air Pollution Control Commission, the Attorney General, or any District Attorney, may file in the Circuit Court, sitting in equity, in the county in which the air contamination source is located, a bill or petition to enjoin the maintenance or operation of any air contamination source in violation of this act or any rule or regulation adopted pursuant to it. No bill or petition shall be filed by the Commission unless the filing of same has first been authorized by the Commission. The filing, presentation, and hearing of a bill or petition, as herein authorized, and the dissolution of any injunction issued pursuant thereto, and including appeals from the judgment of the Circuit Court, in Equity shall be governed by the general laws of the State of Alabama, which now or hereafter may govern applications for injunctive relief, except as herein provided. The Court shall not grant a temporary injunction unless it has a reasonable cause to believe that a respondent is operating or maintaining an air contamination source in violation of this act or in violation of any rule or regulation adopted pursuant thereto. The Court shall, upon final hearing, if the proof be sufficient, grant a final injunction restraining the respondent from operating or maintaining said air contamination source. No bond shall be required in any proceedings under this subsection.

Section 18. Permits. —

(1) The Commission by regulation shall prohibit the construction, installation, modification, or use of any equipment, device, or other article which it finds may cause or contribute to air pollution or which is intended primarily to prevent or control the emission of air pollutants, unless a permit therefor has been obtained from the Director.

(2) The Commission may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary.

(3) The Commission shall provide for the issuance, suspension, revocation and renewal of any permits which it may require pursuant to this section.

(4) No person shall construct, install, modify or use any equipment, device or other article designated by regulations, capable of causing or contributing to air pollution or designated to prevent air pollution without a permit from the Director or in violation of any conditions imposed by such permits.

Section 19. Severability. The provisions of this Act are severable and if any part, section, subsection, clause, paragraph or phrase of this Act shall be adjudged to be invalid or unconstitutional by any court of competent jurisdiction, the judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the part, section, subsection, clause, paragraph or phrase of this Act that shall be directly involved in the controversy in which such judgment shall have been rendered.

Section 20. Repealer. This Act is intended to supplement existing law, and no part thereof shall be construed to repeal any existing laws specifically enacted for the protection of health or the control of radiation; however, Act No. 1135, Regular Session of 1969 (Gen. Acts 1969, p. 2100) is hereby expressly repealed.

Section 21. Effective Date. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved September 3, 1971.

Time: 10:00 A.M.

Act No. 770

H. 479—Goodwin, Reynolds

AN ACT

To apply in all counties having a population of not less than 48,000 and not more than 50,000 according to the 1970 Federal decennial census and having special courts where the probation services for juvenile delinquents is not now provided by the Department of Pensions and Security; to authorize and require the expenditure of State funds to pay part of the cost of salaries of juvenile court probation officers in all such counties when probation officers are certified by the State Department of Pensions and Security under standards prescribed by the State Board of Pensions and Security; to authorize matching State funds with county

funds; and to appropriate from any funds in the State Treasury not otherwise appropriated money necessary for carrying out the purposes of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby authorized the payment from the State Treasury a part of the cost of the salary of certain probation officers appointed by special courts dealing with juvenile cases. These funds will be paid when request is made by the governing body of any county in Alabama having a population of not less than 48,000 and not more than 50,000 according to the 1970 decennial census having special courts where probation services for juvenile delinquents is not now furnished by the Department of Pensions and Security. The maximum number of such probation officers shall not exceed one for each 30,000 inhabitants or a fraction thereof. Provided, however, in the event the Governor should determine that the maximum number of probation officers as allowed by this law are not needed, then the Governor may limit such maximum number of probation officers.

Section 2. The salary of such probation officer shall be fixed by the court but in no case shall the State funds expended exceeded \$3,500.00 per annum for each juvenile court probation officer, and each dollar of State funds shall be matched with one dollar of local funds. Such probation officers as are paid partially from funds in the State Treasury must be certified by the State Department of Pensions and Security under standards prescribed by the State Board of Pensions and Security.

Section 3. For the purpose of carrying out the provisions of this Act so much as may be necessary shall be paid from the 1972 and 1973 appropriation carried in the General Appropriation Act for Juvenile Probation Officers.

Section 4. This Act shall become effective on October 1, 1971.

Approved September 7, 1971.

Time: 1:10 P.M.

Act No. 771 H. 534—Dill, Meeks, Falkenburg, Jones (E),
Boutwell, Wallace, Parker (H),
Timmons, Gafford

AN ACT

To provide that in any county in the State having a population of 600,000 or more according to the last or any subsequent federal census

any person who in payment of any tax issues a worthless check or a check which is not paid by the bank upon which it is drawn shall be subject to a penalty.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply to any county in the State of Alabama having a population of 600,000 or more according to the last or any subsequent federal census. The word "person" as used in this act shall include a corporation, firm or association.

Section 2. Where payment of any tax or fee to the County or to the State is made by any person who issues therefor a worthless check or a check which is not paid by the bank upon which it is drawn shall be subject to a penalty of 5% of the amount of such check provided, however, that in any event such penalty shall be at least \$1.50. The penalty herein provided shall be in addition to the other penalties now or hereafter provided shall be in addition to the other penalties now or hereafter provided by law. All penalties collected under this act shall be paid into the general fund of the county.

Section 3. This act shall become effective upon its approval by the Governor or by its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:11 P.M.

Act No. 772

H. 535—Dill, Meeks, Adwell, Boutwell,
Timmons, Parker (H)

AN ACT

To amend Section 4 of Act No. 662 of the Legislature of Alabama of 1951 (General Acts of 1951, Page 1132, et seq.) which fixes, levies and requires the payment of a license tax upon the sale, distribution, delivery, storage, or taking out of storage of beer, lager beer, ale, porter, near beer or similar fermented malt liquor in any county having a population of 400,000 or more according to the last or any subsequent federal census.

Be It Enacted by the Legislature of Alabama:

Section 1. That Section 4 of Act No. 662 of the Legislature of Alabama of 1951 (General Acts of 1951, Page 1132, et seq.) which fixes, levies and requires the payment of a license tax upon the sale, distribution, delivery, storage, or taking out of storage of beer, lager beer, ale, porter, near beer or similar fermented malt liquor in any county having a population of 400,000 or more according to the last or any subsequent federal census, be amended so as to read as follows:

"Section 4. (a) It shall be unlawful for any distributor, seller, or any person having no place of business within the county to make any sale, distribution, or delivery of malt or brewed beverages within the county without first having qualified by posting bond as provided in Section 8 of Act No. 662 of the 1951 Legislature as amended, and having obtained a written permit to do so from the probate judge of the county. Said permit shall show the name and address of such distributor or seller together with the name and address of the distributor or seller or other person outside of the county from whom purchased, received or procured, the date such malt or brewed beverages are to be delivered or distributed into such county, the brand of such malt or brewed beverages, the quantity of each brand of such malt or brewed beverages, the size and kind of containers of each brand of such malt or brewed beverages and the name and address of each and every distributor, seller or other person to whom any malt or brewed beverages shall be sold, distributed or delivered within the county by such distributor or seller, his agents, servants or employees obtaining such permit. Such person, distributor, or seller, having no place of business within the county, shall be liable for and subject to the license tax fixed and specified in section 3 of Act No. 662 of the 1951 Legislature as amended, in addition to the penalties for violation of the provisions of this subdivision; provided, however, that nothing contained in this subdivision, shall authorize any sale, distribution, or delivery of malt or brewed beverages in the county if such sale, distribution, or delivery is prohibited by any other laws of this state.

(b) It shall be unlawful for any licensed distributor, or seller, or any person having a place of business within the county to transport, distribute, or deliver into such county, any malt or brewed beverages without first obtaining written permission from the probate judge of said county, to transport, deliver, or distribute such malt or brewed beverages to or within said county. Said permit shall show the name and address of such distributor or seller together with the name and address of the distributor, or seller, or other person outside the county from whom purchased, received, or procured, the date such malt or brewed beverages are to be delivered, or distributed into such county, the brand of such malt or brewed beverages, the quantity of each brand of such malt or brewed beverages, the size and kind of containers of each brand of such malt or brewed beverages, and the name and address of each and every distributor, seller, or other person to whom any malt or brewed beverages shall be sold, distributed or delivered within the county by such distributor or seller, his agents, servants or employees obtaining such permit. Provided, however, this subsection shall not apply to shipments of malt or brewed beverages when

shipped direct from the brewery to a licensed and properly qualified distributor's or seller's warehouse or place of business in such county.

(c) It shall be unlawful for any person to have in his possession any malt or brewed beverages on which the license tax fixed and specified in Section 3 of Act No. 662 of the 1951 Legislature as amended has not been paid. If any person who is not a licensed wholesale or retail distributor within such county shall have in his possession within such county more than ten cases (240 containers) of malt or brewed beverages it shall be prima facie evidence that the license tax fixed and specified by Section 3 of Act No. 662 of the 1951 Legislature as amended has not been paid.

(d) The license inspector, his agent, or any peace officer of said county, shall have authority to seize without warrant any and all malt or brewed beverages on which the license tax levied by this subdivision has not been paid, including the containers or packages in which such malt or brewed beverages are found, in the possession of any person not qualified as provided in this section, or of any person violating the provisions of this section, and such malt or brewed beverages in the possession of such unqualified person are hereby declared to be contraband goods and upon such confiscation shall be delivered to the probate judge for sale at public auction to the highest bidder after due advertisement. If there be in such county a county purchasing agent the probate judge may deliver such malt or brewed beverages to such purchasing agent to be sold at public auction as herein provided. The proceeds of the sale of any such malt or brewed beverages sold hereunder after paying all costs shall be distributed by the probate judge as provided in Section 10 of Act No. 662 of the 1951 Legislature; provided that after the costs of confiscation and sale are paid and before distribution by the probate judge, the arresting officer or officers shall receive one-fourth of the proceeds.

(e) In all cases of seizure of any malt or brewed beverages hereinafter made as being subject to forfeiture under the provisions of this subdivision, which, in the opinion of the officer or person making the seizure, are of the appraised value of fifty dollars (\$50.00) or more, the said officer or person shall proceed as follows: First, he shall cause a list, containing a particular description of the malt or brewed beverages, showing the quantity of each brand of such malt or brewed beverages, the size and kind of containers of each brand, the date or dates on which confiscated and the person or persons from whom confiscated, to be prepared in duplicate, and an appraisal made thereof by three sworn appraisers to be selected by him, who shall be respectable and disinterested citizens of the county

wherein the seizure was made. Said list and appraisement shall be properly attested by said officer or person, and said appraisers shall be allowed the sum of one dollar (\$1.00) per day not exceeding two days to be paid by the probate judge out of any revenue received by him from the sale of the confiscated goods or the compromise which may be effected. Second, if the said malt or brewed beverages are believed by the officer making the seizure to be of value less than fifty dollars (\$50.00), no appraisement shall be made. The said officer or person shall proceed to post a notice for three weeks in writing at three places in the county, that the seizure was made, describing the malt or brewed beverages, the quantity of each brand, the size and kind of containers of each brand, stating the time and place and cause of their seizure, and requiring any person claiming them to appear and make such claim within thirty days from the date of the first posting of such notice. Third, any person claiming said malt or brewed beverages so seized as contraband within the time specified in the notice, may file with the probate judge a claim in writing stating his interest in the articles seized, and shall execute a bond to the probate judge in the penal sum equal to double the value of the malt or brewed beverages so seized, but in no case will the said bond be less than the sum of two hundred dollars (\$200.00), with sureties to be approved by the probate judge in the county in which the malt or brewed beverages are seized, conditioned that in the case of condemnation of the malt or brewed beverages so seized, the obligor shall pay to the probate judge the full value of the malt or brewed beverages so seized, and all costs and expenses of the proceeding to obtain such condemnation, including a reasonable attorney's fee. Upon the delivery of such bond to the probate judge, he shall transmit the same with the duplicate list or description of the malt or brewed beverage so seized to the county attorney of such county if there be a county attorney, or to the solicitor of the county in which such seizure was made, and the said county attorney or solicitor shall file a bill in the circuit court in equity in the county where the seizure was made to secure the forfeiture of said malt or brewed beverages and the containers and packages in which seized. Upon filing the bond as aforesaid, the said malt or brewed beverages shall be delivered to the claimant pending the outcome of said case; provided, however, the proper license tax must be paid by the claimant before said malt or brewed beverages are delivered by the probate judge. Fourth, if no claim is interposed or no bond given within the time above specified, such malt or brewed beverages shall be forfeited without further proceedings and the same shall be sold as herein provided. The proceedings against malt or brewed beverages pursuant to the provisions of this subsection shall be considered as proceedings in rem.

(f) The probate judge may, in his discretion, return any malt or brewed beverages confiscated under this subdivision, when it is shown that there was no intention to violate the provisions of this subdivision, and if the quantity of such malt or brewed beverages does not exceed two cases, provided, such person or persons shall pay to the probate judge an amount equal to the license tax and penalties due and levied under the provisions of this subdivision, and in such cases no advertisements shall be made or notices posted in connection with said confiscation.

Approved September 7, 1971.

Time: 1:12 P.M.

Act No. 773

H. 769—Jackson, Wise

AN ACT

To amend the title and Sections 1 and 2 of Act No. 908, H. 1286, Regular Session 1969 (Acts 1969, p. 1636), which Act provides for changes in election precincts, regulation and use of voting machines, changes in boundary lines, use of paper ballots, election officials and compensation therefor, and duties of the judge of probate in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 908, H. 1286, Regular Session 1969 (Acts 1969, p. 1636), is hereby amended to read as follows:

“An Act Relating to counties having populations of not less than 34,000 nor more than 34,800; to provide that the election precincts of the county as now established shall so remain until changed and the governing body of the county shall have exclusive power to establish, change, consolidate or alter election precincts in such county; to provide that the governing body of the county shall regulate and provide for the use of voting machines at all elections, special, general or primary held within the county, a political subdivision thereof or any municipality therein, and in so doing may, in the manner herein prescribed, divide any voting precinct of the county into districts, designate in each district a voting center at which the qualified electors of the district so designated may vote; to provide the time of changing boundary lines; to prescribe the number of voting machines to be maintained at each voting center; to provide for the use of paper ballots in voting centers where voting machines are not provided; to provide election officers for each voting center; to prescribe the duties of such election officers and fix their compensation; to prescribe the duties of the judge of

probate in such elections; to provide for the manner of payment of such election officials.

Section 2. Section 1 of said Act No. 908, H. 1286, is hereby amended to read as follows:

“Section 1. This act shall apply only in counties of the State of Alabama having populations of not less than 34,000 nor more than 34,800 according to the last or any subsequent federal decennial census. Unless a contrary intent appears from the context, as used herein, the word “election” shall mean any general, special or primary election held in the county, including a district, municipal, county, state or federal election; and the words “voting center” shall mean any place in the county which the county governing body designates as a voting place; the words “governing body” of such county shall mean the court of county commissioners, board of revenue, county commission, or other like county governing body.”

Section 3. Section 2 of said Act No. 908, H. 1286, is hereby amended to read as follows:

“Section 2. The election precincts of the county as now established shall so remain until changed and the governing body of the county shall have exclusive power to establish, change, consolidate or alter election precincts in such county. (a) subject to the provisions of sub-section (b) of this section, when the use of voting machines at elections has been, or shall hereafter be authorized, the governing body of the county shall have the authority to designate a voting center or voting centers in the county. Provided, however, that nothing in this Act shall be construed to require the county governing body to designate the county courthouse as a voting center. Such designation shall be made by a resolution adopted by the governing body of the county, which resolution shall state: (1) the location of the voting center, and (2) the boundaries of the district in which electors shall reside to be entitled to vote at said voting center.

The limitations prescribed by law as to the number of electors who may reside in a voting district shall not apply to a district designated hereunder. All of the district designated for a voting center shall be located in the same precinct; and the voting center designated therefor shall be located in the district. The governing body of the county may by resolution abolish a voting district and discontinue the voting center therein or may extend or restrict the boundaries of such voting district and retain the voting center therein or may subdivide such voting district and designate an additional voting center therein, provided that no voting district line be changed less than 60 days prior to an election in said district.

(b) Except as herein expressly provided, in designating voting centers and the district for which they were established, the governing body of the county shall be subject to the same laws as are applicable regarding the change or establishment of the districts of a precinct, including but not limited to the provisions of Article 6, Chapter 1, Title 17, Code of Alabama 1940."

Section 4. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:13 P.M.

Act No. 774

H. 770—Jackson, Wise

AN ACT

To amend the title and Section 1 of Act No. 118, H. 194, Special Session 1966 (Acts 1966, p. 156), which Act provides for the hunting of female deer or unantlered male deer in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 118, H. 194, Special Session 1966 (Acts 1966, p. 156), is hereby amended to read as follows:

"An Act To authorize the Director of Conservation to open a season in counties having a population of not less than 34,000 nor more than 34,800 for the hunting of female deer or unantlered male deer."

Section 2. Section 1 of said Act No. 118, H. 194, is hereby amended to read as follows:

"Section 1. Any law of the State of Alabama to the contrary notwithstanding, the Director of Conservation is hereby authorized to open a season in counties having a population of not less than 34,000 nor more than 34,800 for the hunting, taking, capturing and killing of female deer or unantlered male deer by a duly promulgated regulation when, in his best judgment, he deems it necessary for biological reasons or because of crop damage to open the season on such deer."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:13 P.M.

Act No. 775

H. 771—Jackson, Wise

AN ACT

To repeal Act No. 10, H. 14, approved October 29, 1965, Third Special Session (Acts of Alabama 1965, p. 214) entitled, "An Act Relating to counties having populations of not less than 35,500 nor more than 36,500 according to the most recent federal decennial census; to regulate further fishing gear which may be used in commercial fishing operations in the public waters of such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 10, H. 14, approved October 29, 1965, Third Special Session (Acts of Alabama 1965, p. 214) entitled, "An Act Relating to counties having populations of not less than 35,500 nor more than 36,500 according to the most recent federal decennial census; to regulate further fishing gear which may be used in commercial fishing operations in the public waters of such counties," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 1:15 P.M.

Act No. 776

H. 772—Jackson, Wise

AN ACT

To repeal Act No. 84, H. 94, approved, February 9, 1956, Special Session 1956 (Acts of Alabama 1956, p. 125) entitled "An Act To provide an optional plan by which any county governing body in all counties with a present or future population of 40,000 and less than 45,000 may establish two or more voting places within an election precinct, to direct the grouping of not more than 300 names of qualified registered voters within such precinct in alphabetical order and the assignment of such groups to a designated voting place; to require the publication of such group-lists and their respective assignments to voting places within said precinct; to provide that this law shall not apply to election precincts wherein voting machines are lawfully in use; to provide for the repeal of all laws in conflict herewith; and to provide when this Act shall become effective," and all acts amendatory thereto.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 84, H. 94, approved February 9, 1956, Special Session 1956 (Acts of Alabama 1956, p. 125) entitled, "An Act To provide an optional plan by which any county governing body in all counties with a present or future population of 40,000 and less than 45,000 may establish two or more voting places within an election precinct, to direct the grouping of not more than 300 names of qualified registered voters within such precinct in alphabetical order and the assignment of such groups

to a designated voting place; to require the publication of such group-lists and their respective assignments to voting places within said precinct; to provide that this law shall not apply to election precincts wherein voting machines are lawfully in use; to provide for the repeal of all laws in conflict herewith; and to provide when this Act shall become effective," and all acts amendatory thereto are hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 1:16 P.M.

Act No. 777

H. 773—Jackson, Wise

AN ACT

To repeal Act No. 11, H. 15, approved, October 29, 1965, Third Special Session 1965 (Acts of Alabama 1965, p. 215) entitled, "An Act Relating to counties having populations of not less than 35,500 nor more than 36,500 according to the most recent federal decennial census; to regulate further fishing gear which may be used in commercial fishing operations in the public waters in such counties."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 11, H. 15, approved, October 29, 1965, Third Special Session 1965 (Acts of Alabama 1965, p. 215) entitled, "An Act Relating to counties having populations of not less than 35,500 nor more than 36,500 according to the most recent federal decennial census; to regulate further fishing gear which may be used in commercial fishing operations in the public waters in such counties," is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 1:17 P.M.

Act No. 778

H. 778—Carnes, Waldrop, Wynot

AN ACT

Relating to counties having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census; to prohibit employers from requiring or requesting any employee or applicant for employment to waive his right to have his juvenile court record withheld from public inspection, as such right is accorded by Section 353, Title 13, Code of Alabama 1940; providing penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties of this state having a population of not less than 90,000 nor more than 100,000, according to the most recent federal decennial census, it shall be unlawful for any employer or agent thereof to require or request any employee or applicant for employment to disclose his juvenile court record or to waive his right to have such record withheld from public inspection, as such right is accorded by Section 353, Title 13, Code of Alabama 1940.

Section 2. Any person who violates this act shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$10 nor more than \$500.

Section 3. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:18 P.M.

Act No. 779 H. 850—McBride, Weeks, Boutwell, Erdreich,
Doss

AN ACT

To apply only in counties having a population of 500,000 or more according to the last or any succeeding decennial federal census; to authorize any county board of education in such county to provide insurance against loss or damage by fire, lightning, windstorm, hail or other peril, and any or all school buildings or properties, equipment, furniture or supplies stored in such buildings which belong to said county board or in which such county board has an interest.

Be It Enacted by the Legislature of Alabama:

Section 1. That this Act shall apply only in counties having a population of 500,000 or more according to the last or any succeeding decennial census.

Section 2. That the county board of education in any such county shall have the authority to provide insurance against loss or damage by fire, lightning, windstorm, hail or other peril for any or all school buildings and properties, equipment, furniture or supplies, stored in such buildings or belonging to such county board or in which the county board has an interest,

and which are used or held in trust by said board for school purposes, either in an insurance company or in the State Insurance Fund, or in a self-insurance program, whichever shall provide, in the judgment and opinion of such board, the best insurance coverage for such schools, buildings and property. If such county board, by appropriate resolution, determines that such properties (real, personal or mixed) shall be covered by self-insurance by such board, it shall establish, earmark, set aside and maintain such reserve, specifically so designated, as the board determines, from time to time, are adequate and required to provide security and adequate coverage to fund and maintain such a self-insurance program and to invest the funds in such account in any investment or securities which, at the time of making such investment or purchase, are approved legal investments of trust funds by fiduciaries in Alabama.

Section 3. Act No. 529, H. 898 of the Regular Session of 1953, approved September 8, 1953, (1953 Acts of Alabama, V. 2, p. 738) as amended by Act No. 222, S. 87 of the 1961 Extra Session of the Alabama Legislature, approved September 15, 1961 (1961 Acts of Alabama, V. 2, p. 2235-6), and all other laws or parts of laws in conflict herewith are hereby repealed.

Section 4. If any portion or part of this Act shall be held to be invalid by a court or competent jurisdiction, such invalidity shall not affect any other portion or part hereof that is not in and of itself invalid.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:19 P.M.

Act No. 780

H. 924—Crowe

AN ACT

To amend the title and Section 1 of Act No. 1188, H. 1414, Regular Session 1969 (Acts 1969, p. 2223), which provides for the reinstatement of driving privileges after suspension thereof in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1188, H. 1414, Regular Session 1969 (Acts 1969, p. 2223), is amended to read as follows:

“An Act Relating to counties having populations of not less than 55,500 nor more than 56,500, according to the most recent

federal decennial census; and providing for the reinstatement of the driving privileges of residents of such counties after suspension of such privileges pursuant to Section 5 of Act No. 704, H. 475, Regular Session 1951 (Acts 1951, p. 1224 at p. 1228)."

Section 2. Section 1 of said Act No. 1188, H. 1414, is amended to read as follows

"Section 1. This Act shall apply in, but only in, counties having populations of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:20 P.M.

Act No. 781

H. 955—Crowe

AN ACT

To amend Section 1 of Act No. 375, H. 854, Regular Session 1963 (Acts 1963, p. 876), which authorizes the governing bodies of certain counties classified on a population basis to prescribe the times when county offices may be closed.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 375, H. 854, Regular Session 1963 (Acts 1963, p. 876), is amended to read as follows:

"Section 1. This Act shall apply in all counties having a population of not less than 55,500 nor more than 56,500, according to the 1970 or any subsequent federal decennial census."

Section 2. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:21 P.M.

Act No. 782

H. 956—Crowe

AN ACT

To amend the title and Section 1 of Act No. 14, H. 64, Special Session 1962 (Acts 1962, p. 22), which fixes the time of holding meetings of the county governing bodies of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 14, H. 64, Special Session 1962 (Acts 1962, p. 22), is amended to read as follows:

"An Act To fix the time of holding meetings of the court of county commissioners, board of revenue, or other like governing body in all counties having a population of not less than 55,500 nor more than 56,500 inhabitants, and to repeal Act 139, H. 337, approved August 1, 1961 (Acts of Alabama 1961, vol. I, p. 177) and all conflicting laws."

Section 2. Section 1 of said Act No. 14, H. 64, is amended to read as follows:

"Section 1. The court of county commissioners, board of revenue, or other like governing body of every county having a population of not less than 55,500 nor more than 56,500 inhabitants, according to the 1970 or any subsequent federal decennial census, shall hold regular meetings on Monday of each week. Such meetings shall convene at 1:00 P.M."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:22 P.M.

Act No. 783

H. 957—Crowe

AN ACT

To amend Section 1 of Act No. 54, S. 15, Special Session 1964 (Acts 1964, p. 71), which relates to courts established in lieu of justice of the peace courts for those precincts lying within or partly within cities having populations of not less than 10,275 nor more than 10,875; to increase the jurisdiction of such courts, and to provide additional compensation to the judges of such courts for the performance of the additional duties resulting from such increased jurisdiction.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 54, S. 15, Special Session 1964 (Acts 1964, p. 71), is amended to read as follows:

"Section 1. Any court established in lieu of a justice of peace court in a precinct lying within or partly within any city having a population of not less than 10,275 nor more than 10,875 according to the 1970 or any subsequent federal decennial census shall have jurisdiction concurrently with the county court or any court created in lieu of a county court of violations of and offenses against the game and fish laws prescribed in Code of Alabama 1940, Title 8 as amended or supplemented."

Section 2. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:23 P.M.

Act No. 784

H. 958—Crowe

AN ACT

To amend the title and Section 1 of Act No. 302, H. 536, Regular Session 1965 (Acts 1965, p. 419), which provides for compensation of the secretary of the circuit solicitor in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 302, H. 536, Regular Session 1965 (Acts 1965, p. 419), is amended to read as follows:

“An Act To fix and provide for payment of the compensation of the secretary of the circuit solicitor in any county having a population of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census.”

Section 2. Section 1 of said Act No. 302, H. 536, is amended to read as follows:

“Section 1. In all counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, the secretary of the solicitor, whose compensation is payable by the county, shall be entitled to receive an annual salary of \$3,600, payable from the county treasury, in equal monthly installments.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:24 P.M.

Act No. 785

H. 959—Crowe

AN ACT

To amend the title and Section 1 of Act No. 304, H. 539, Regular Session 1965 (Acts 1965, p. 420), which provides an expense allowance payable from county school funds for the county superintendent of education of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 304, H. 539, Regular Session 1965 (Acts 1965, p. 420), is amended to read as follows:

“An Act Relating to counties having a population of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census; to provide an expense allowance for the county superintendent of education in each county payable out of county school funds.”

Section 2. Section 1 of said Act No. 304, H. 539, is amended to read as follows:

“Section 1. In any county having a population of not less than 55,500 nor more than 56,500 according to the most recent federal decennial census, the county superintendent of education shall receive an expense allowance of two thousand four hundred dollars (\$2,400) per annum for expenses incurred in the performance of his official duties. Such allowance shall be paid in equal monthly installments out of county school funds, and shall be in lieu of any expense allowance heretofore provided to the superintendent of education in any such county.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:25 P.M.

Act No. 786

H. 961—Crowe

AN ACT

To amend the title and Section 1 of Act No. 131, H. 141, Special Session 1965 (Acts 1965, p. 183), which provides for the appointment and salary of a clerk by the register of the circuit court of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 131, H. 141, Special Session 1965 (Acts 1965, p. 183), is amended to read as follows:

“An Act To apply in counties having populations of not less than 55,500 nor more than 56,500, providing for appointment of a clerk by the register of the circuit court and for payment of such clerk's salary by the county, repealing conflicting laws.”

Section 2. Section 1 of said Act No. 131, H. 141, is amended to read as follows:

“Section 1. In all counties having a population of not less than 55,500 nor more than 56,500, according to the most

recent federal decennial census, the register of the circuit court of the county may appoint a clerk, to hold office at the pleasure of the register. The register shall fix the salary of such clerk, not to exceed \$250 per month, which salary shall be paid from the general fund of the county."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:26 P.M.

Act No. 787

H. 962—Crowe

AN ACT

To amend further Section 463 of Title 51, Code of Alabama 1940, as last amended, which levies license taxes on persons engaged in selling automobiles; levying a special license on auction sales of motor vehicles in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 463 of Title 51, Code of Alabama 1940, as last amended, is amended to read as follows:

"Section 463. (a) Each person, dealer or agent selling, offering to sell, or soliciting orders for the sale of motor vehicles to the ultimate consumer, who does not maintain a regularly established place of business in this state for the sale of such motor vehicles, shall be required to pay an annual license of two hundred dollars for use of the state and one hundred dollars for use of the county. Both a state and county license shall be payable in each county in which such person engages in any of the activities herein mentioned in this section. (b) In all counties other than counties having populations of not less than 55,500 nor more than 56,500, according to the most recent federal decennial census, each person, firm, corporation, dealer or agent, conducting an auction sale for the sale of motor vehicles or offering to sell motor vehicles at public auction, whether to dealer, consumer or otherwise, shall be required to pay an annual license of five hundred dollars for the use of the state and five hundred dollars for the use of the county. Both a state and county license shall be payable in each county in which such person, firm, corporation, dealer or agent engages in or holds himself out to sell or offer to sell motor vehicles at auction."

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:27 P.M.

Act No. 788

H. 963—Crowe

AN ACT

To amend the title and Section 1 of Act No. 135, H. 143, Special Session 1965 (Acts 1965, p. 186), which regulates the compensation of the deputy or assistant circuit clerks of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 135, H. 143, Special Session 1965 (Acts 1965, p. 186), is amended to read as follows:

“An Act Regulating the compensation of the deputy or assistant circuit clerks of counties having populations of not less than 55,500 nor more than 56,500, according to the last or any subsequent federal decennial census.”

Section 2. Section 1 of said Act No. 135, H. 143, is amended to read as follows:

“Section 1. The deputy or assistant circuit clerks of all counties having populations of not less than 55,500 nor more than 56,500, according to the last or any subsequent federal decennial census, each shall receive an annual salary of three thousand three hundred dollars (\$3,300), payable in equal monthly installments out of the general fund of the county. The clerk-hire allowance prescribed by law for the circuit clerk of any county to which this act applies is hereby increased in such amount as is necessary to provide for the payment of the increase in the salary of the deputy or assistant circuit clerk hereby authorized without reducing the amount available for other clerical help for the circuit clerk.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:28 P.M.

Act No. 789

H. 965—Manley, Pruitt

AN ACT

Relating to the City of Uniontown in Perry County: Authorizing the City of Uniontown as a municipal corporation to establish, purchase,

construct, maintain and operate a television cable system and to furnish television cable service to the residents of the city and to residents of the municipal corporation and surrounding territory; prescribing its powers in connection therewith; authorizing and regulating the issuance and security of bonds and other evidence of indebtedness by such municipal corporation in connection with such systems; providing for the payment of such bonds and other evidences of indebtedness and the rights of the holders thereof; and exempting municipal corporations transacting business pursuant to the act from the jurisdiction and control of the Alabama Public Service Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply only to the City of Uniontown in Perry County.

Section 2. The municipal corporation of the City of Uniontown in Perry County shall have the right to establish, purchase, construct, maintain and operate a television cable system and to furnish television cable service to their residents and residents of surrounding territory.

Section 3. The municipal corporation is authorized to construct, lease, purchase or otherwise acquire television lines or cables for the furnishing of television service from any point in this state or any other state to said municipal corporation and surrounding territory.

Section 4. For the purposes of this act such municipal corporation may exercise the right of eminent domain. Such eminent domain proceedings shall be conducted in the manner now provided by law.

Section 5. a) In payment for the purchase, construction, acquisition, extension or maintenance of such television cable system, the said municipal corporation may issue its bonds in the manner provided by law.

b) Such municipal corporation, in order to secure the prompt and faithful payment of the principal and interest of all debts, bonds or other evidences of indebtedness incurred or issued by it for the construction, acquisition, extension or maintenance of a television cable system may execute a mortgage or deed of trust upon any or all of such system and all property used in connection therewith, including the franchise or any part thereof.

c) Such mortgage or deed of trust may contain such terms, conditions, covenants and warranties for the protection of the municipal corporation and holders of such bonds or securities issued by such municipal corporation as may be determined and agreed upon by the governing body of the municipal corporation and persons, firms or corporations owning such debts, bonds or securities.

d) Such mortgages may provide that in the event of the foreclosure of such mortgage or deed of trust, that the purchaser at such foreclosure sale may acquire the right, privilege and franchise of operating such system as may be so sold or conveyed, and such purchaser or his vendee may have the right, authority and privilege to carry on and operate such system in the same manner, on the same terms and to the same extent as the municipal corporation is authorized to operate until the municipal corporation may redeem such system from such mortgage sale.

e) Such mortgage or deed of trust may provide that during the ownership of the system by the municipal corporation, its control of the service of the system shall not be diminished or interfered with by the grant of any other franchise for the operation of any other plant or system for similar purposes; and that such rates and charges shall be established and maintained as are sufficient to meet the costs of operation and maintenance; and such municipal corporation may pledge all of the receipts, earnings and revenues from the operation of the system for the payment of the debts, bonds or other evidences of indebtedness secured by such mortgages or deeds of trust.

Section 6. The municipal corporation furnishing television cable service pursuant to this act shall have the right to require any person furnishing television cable service to the public in this state to interconnect the television cable, lines, facilities or systems furnishing such service with, or otherwise make available such cables, lines, facilities or systems to the municipal corporation's television cable, lines, facilities or systems in order to provide a continuous line of communication for the municipal corporation's subscribers. In the event such person and the municipal corporation shall be unable to agree upon the terms and conditions of such interconnection, including compensation therefor, the Alabama Public Service Commission, upon the request of the municipal corporation, shall establish such terms and conditions which shall be reasonable and non-discriminatory.

Section 7. The municipal corporation shall have all the power and authority necessary and proper to the exercise of the powers conferred on it by this act and in effectuating the purposes of this act.

Section 8. For the transaction of business pursuant to this act, the said municipal corporation shall be exempt from the jurisdiction and control of the Alabama Public Service Commission with respect to such business.

Section 9. All laws or parts of laws in conflict with this act are repealed.

Section 10. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:29 P.M.

Act No. 790

H. 967—Pruitt, Manley

AN ACT

To create and establish a Park and Recreation Board for the town of Livingston in Sumter County; to prescribe the composition, powers, and duties of said board, to provide for the necessary appropriations, and to provide for a director and staff for the board.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created and established a Park and Recreation Board for the town of Livingston. Such board shall be composed of five citizens of the town selected for their knowledge and interest in parks and recreation and for their community leadership. The governing body of the town of Livingston shall appoint two members for two year terms, and three members for four year terms, and shall thereafter appoint successors to each member for terms of four years. The board shall select from among its members its chairman and shall meet at least once each calendar month. Three members shall constitute a quorum. The members shall receive no compensation other than the actual expenses incurred in the performance of their duties.

Section 2. The Board shall appoint a Director of Parks and Recreation and shall prescribe his qualifications, powers, duties and compensation. The Director shall, with the approval of the Board, employ any personnel necessary to carry out the purposes of this act, and shall prescribe their qualifications, duties, authority and compensation.

Section 3. The board shall direct, supervise, and promote such recreation programs as will contribute to the general welfare of the residents of Livingston. It shall have control over all lands, buildings, equipment and other facilities purchased or leased by it, or assigned to it for recreational purposes by the town, or otherwise acquired by it.

Section 4. The board is hereby authorized to:

(a) Enter into contracts with and cooperate fully with other local agencies, state agencies and federal agencies for the purpose of maintaining and improving the recreational services and facilities of the town.

(b) Acquire lands, buildings, and facilities for recreational purposes through purchase, lease, gift or sale;

(c) Accept grants or loans from the federal government, state government, foundations, and other agencies when such grants or loans are available;

(d) Borrow money for recreational purposes and issue revenue bonds under such terms as may be practicable.

Section 5. The governing body of the town of Livingston shall appropriate to the Park and Recreation Board any funds it deems advisable to carry out the purposes of this act.

Section 6. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:30 P.M.

Act No. 791

H. 979—Grey (D)

AN ACT

Relating to the twenty-fourth judicial circuit; to provide a secretary for the district attorney; to provide for compensation thereof, and to provide for proportional payment by the counties constituting said circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The district attorney of the twenty-fourth judicial circuit may appoint a secretary in addition to any other clerical assistance which heretofore may have been authorized by law. Such secretary shall serve at the pleasure of the district attorney and shall perform such duties as he may direct. The compensation of such secretary shall be \$3600 per annum, and shall be paid in monthly installments, on warrant of the district attorney, by the counties constituting the twenty-fourth judicial circuit in equal proportions.

Section 2. This act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:31 P.M.

Act No. 792

H. 983—Jones (F), Taylor

AN ACT

To alter, rearrange and extend the boundaries of the City of Montgomery, so as to include within the corporate limits thereof certain additional territory in the NE $\frac{1}{4}$ Section 29, Township 17N, Range 18E, Montgomery County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundaries of the City of Montgomery, in Montgomery County, Alabama, be and the same are hereby altered, rearranged and extended so as to include within the corporate limits of said City certain additional territory lying within the following described boundaries, to-wit:

Beginning at the intersection of the west line of the Lower Wetumpka Road and the north line of Section 29, T17N, R18E, Montgomery County, Alabama, said point of beginning being on the present City Limit line of the City of Montgomery, Alabama; thence east along the north line of said Section 29 to the northeast corner of said Section 29; thence south along the east line of said Section 29 a distance of 2227' more or less to the intersection of the eastern extension of the south line of the Map of Boylston Park Plat, as the same is filed for record in the office of the Judge of Probate, Montgomery County, Alabama, in Plat Book 14, Page 51; thence west along the south line of the eastern extension of said Map of Boylston Park 550'; thence west along the south line of said Map of Boylston Park 881.85' to the southwest corner of said Map of Boylston Park; thence continuing west along the western extension of the south line of Boylston Park 176.55'; thence northerly 185.2' to a point on the south line of Johnson Avenue, said point being 173.4' west of the northwest corner of Lot "O" of said Map of Boylston Park; thence west along the south line of Johnson Avenue to a point on the west line of Lower Wetumpka Road and the present City Limit line; thence northeasterly along the west line of Lower Wetumpka Road and the present City Limit line to the point of beginning.

Section 2. That this Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:32 P.M.

Act No. 793 H. 1401—Stokes, Roberts, Therrell, Collins,
Lyons, Downing, Wood, Nettles,
Perloff, Callahan

AN ACT

To alter, rearrange and add to the limits of the City of Chickasaw in Mobile County, Alabama, and to alter and rearrange the limits of the City of Prichard in Mobile County, Alabama, by removing certain areas from the limits of the City of Prichard and adding same to the limits of the City of Chickasaw, and to describe the areas so removed from the City of Prichard and so added to the City of Chickasaw.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundaries of the City of Chickasaw in Mobile County, Alabama are altered, rearranged and extended to include within the corporate limits of said city the parcels of land hereinafter described, and the boundaries of the City of Prichard in Mobile County, Alabama are altered and rearranged to exclude from the corporate limits of said city the said parcels described as follows:

PARCEL A:

Beginning at the Northeast corner of Section 20, Township 3 South, Range 1 West, Mobile County, Alabama, run westwardly along the north line of said Section 20 a distance of 2490 feet, more or less, to a point on the western right-of-way line of U. S. Interstate Highway 65, which point is on the existing western boundary line of the City of Chickasaw; thence run Southeastwardly along the said western right-of-way line of U. S. Interstate Highway 65, which is along the western boundary line of the City of Chickasaw, a distance of 1775 feet, more or less, to a point, said point being 5200 feet, more or less, southeast of the Northwest corner of the existing Chickasaw city limits measured along the western right-of-way line of U. S. Interstate Highway 65; thence continue Southeastwardly along the said western right-of-way line of U. S. Interstate Highway 65 a distance of 580 feet, more or less, to a point on the existing boundary line of the City of Chickasaw for the point of beginning of the parcel herein described; thence run Eastwardly along the existing boundary line of the City of Chickasaw a distance of 70 feet, more or less, to a point on the centerline of Eight Mile Creek; thence run in a general southwestwardly direction along and with the meanders of said centerline of Eight Mile Creek a distance of 130 feet, more or less, to a point on the western right-of-way line of said U.S. Interstate Highway 65; thence

run Northwestwardly along the said western right-of-way line of U. S. Interstate Highway 65 a distance of 150 feet, more or less, to the point of beginning.

PARCEL B:

Beginning on the south boundary line of West Lee Street (formerly Second Avenue) at the northeast corner of Lot 10, Block 13, North Mobile Subdivision, as shown by map of survey of North Mobile Subdivision recorded in Deed Book 145 N.S., pages 252-263 of the Probate Records of Mobile County, Alabama, said point being on the west right-of-way line of the Alabama State Docks Terminal Railway, for the point of beginning of the parcel herein described, thence run southwardly along the said west right-of-way line of the Alabama State Docks Terminal Railway a distance of 594 feet, more or less, to a point which is 250 feet south of the westward projection of the south boundary line of Third Avenue; thence run westwardly and parallel to the westward projection of the north boundary line of Fourth Avenue a distance of 355 feet, more or less, to the centerline of Gum Tree Branch; thence run southwestwardly, southwardly and southeastwardly along and with the meanders of the said centerline of Gum Tree Branch to a point on the southward projection of the west boundary line of Blackfoot Street, said point being 950 feet, more or less, south of the north boundary line of Section 29, Township 3 South, Range 1 West, Mobile County, Alabama, and being a corner of the present limits of the City of Prichard; thence run northwardly along a southern projection of the said west boundary line of Blackfoot Street and along the west boundary line of Blackfoot Street (being also the present eastern boundary line of the City of Prichard) a distance of 2200 feet, more or less, to a point on the south boundary line of West Lee Street (formerly Second Avenue); thence run west along the said south boundary line of West Lee Street a distance of 300 feet, more or less, to a point at the northeast corner of Lot 10, Block 13, North Mobile Subdivision, the point of beginning.

Section 2. This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:33 P.M.

Act No. 794

H. 1030—Warren, Mims

AN ACT

Relating to judicial procedure in the Thirty-Fifth Judicial Circuit; regulating and providing further for the separation of the jury by consent in felony cases in such circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. If the accused and his counsel and also the prosecuting attorney, in the Thirty-Fifth Judicial Circuit of Alabama in any prosecution for felony, whether capital or non-capital, consent thereto in open court, the trial court, in its discretion, may permit the jury trying the case to separate during the pendency of the trial, whether the jury has retired or not. A separation so permitted shall not create a presumption of prejudice to the accused, but on the contrary it shall be prima facie presumed that the accused was not prejudiced by reason of the separation of the jury.

Section 2. It shall be improper for the trial court to ask the accused, counsel for the accused or the prosecuting attorney in the hearing of the jury whether or not he or they will consent to a separation of the jury pending the trial. It shall be improper for the accused or counsel for the accused, or the prosecuting attorney to state to the trial court in the hearing of the jury that he or they consent to a separation of the jury pending the trial.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:34 P.M.

Act No. 795

H. 1031—Warren, Mims

AN ACT

To regulate further the excusing of persons from jury service in the Thirty-Fifth Judicial Circuit; to authorize requiring persons excused from jury service at one time to serve at a subsequent time; and to regulate the compensation of jurors summoned for one week, but required to serve in another.

Be It Enacted by the Legislature of Alabama:

Section 1. Any circuit judge in the Thirty-Fifth Judicial Circuit of Alabama who excuses any person from jury service for reasonable and proper cause pursuant to Code of Alabama 1940, Title 30, Section 5, may, in his discretion, direct such person so excused from jury service to serve at some later date to be determined by the court. No juror who is excused pursuant to the provisions of the Section shall be entitled to his

mileage fee and per diem fee for the day on which he originally appears and is excused; and for his services during the subsequent week in which he is required to serve he shall receive the same fees as if he was originally summoned to serve during that week.

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:35 P.M.

Act No. 796 H. 1033—Lutz, Grainger, Hearn, Hale, King
AN ACT

Relating to municipalities having a population of not less than 70,000 nor more than 300,000 according to the 1970 or any subsequent federal decennial census; providing for the election by popular vote of members of the city board of education, to prescribe their terms, qualifications and compensation, and to abolish existing boards of education in such cities.

Whereas, the Legislature of the State of Alabama finds that it is desirable for the boards of education in municipalities of the size mentioned in the caption of this bill to be elected, and further finds that there is a unique situation in such municipalities with respect to their boards of education, in that in smaller cities there would likely be a shortage of qualified individuals willing to seek the office of member of the board of education, and in larger cities it would be difficult for the electorate to know all the candidates who might seek the office, now, therefore,

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Boards of education in all cities having populations of not less than 70,000 nor more than 300,000 according to the 1970 or any subsequent federal decennial census are hereby abolished, effective at midnight on the last Tuesday in September in the year 1972, and replaced with the boards of education as herein provided for. Said boards shall have all the powers, duties, rights and immunities otherwise provided by law for city boards of education in the State of Alabama. (b) The members of the board of education of all cities having populations of not less than 70,000 nor more than 300,000 according to the 1970 or any subsequent federal decennial census shall be

elected in the year 1972 and every four years thereafter. The boards of education of such cities shall consist of five places, and such places shall be designated and numbered as follows, to-wit:

- Member, Board of Education, Place No. 1;
- Member, Board of Education, Place No. 2;
- Member, Board of Education, Place No. 3;
- Member, Board of Education, Place No. 4;
- Member, Board of Education, Place No. 5.

A person seeking election and qualifying as a candidate for election as a member of said board shall designate by number the place on such board for which he is a candidate, and it shall be so stated on the ballot. (c) All members of the boards of education herein provided for shall be elected from the city at large, and no person shall be a candidate or be permitted to file his statement of candidacy for more than one of such places. No ballot shall be counted for any candidate except for the place or number for which he announced in his statement of candidacy. The city governing body shall provide for the holding of elections authorized herein and for the payment of the expenses of such elections. (d) Members of the boards of education of cities covered by this act shall be elected on the first Tuesday next after Labor Day in the year 1972. Any candidate who receives a majority of all votes cast for all candidates seeking election to the position for which he is a candidate shall be declared elected to that position. In the event no candidate receives a majority of all of the votes cast for any one or more positions on the board of education, the governing body of the city shall order a second or run-off election to be held on the last Tuesday in September following, at which election the two candidates receiving the most votes for the office in the first election shall be the candidates, and the person receiving the highest number of votes in the second or run-off election shall be declared elected. In the event of a tie vote between the candidates in such run-off election, the then serving governing body of the city shall immediately decide the election by majority vote. (e) The method and dates for qualifying as a candidate for city boards of education provided for hereunder and the conduct of elections hereunder shall be the same as other municipal elections in the same cities, except that each candidate shall pay a qualifying fee of \$50.00. (f) Members of boards of education elected hereunder shall take office on the last Wednesday in September in the year of their election. (g) Candidates for boards of education shall be qualified electors in the city in which they seek election and shall in no way be subject to the authority of the board. (h) In the event of a vacancy in the membership of a board of education subject to

the provisions of this act the city council or commission shall, by majority vote, elect a person to fill such vacancy for the unexpired term.

Section 2. Each member of the board of education elected under the provisions of this act shall receive compensation of \$100.00 per month paid from the city school fund in the manner provided for paying compensation out of such school funds.

Section 3. Except as herein provided the board of education of all cities hereby affected shall in all respects be governed by the general law relative to city boards of education.

Section 4. This act shall not apply to any municipality in a county in which there is only one board of education.

Section 5. The substantive provisions of this act shall not become effective in any city unless it is first approved by a majority of the qualified electors of that city who vote in a referendum election held for that purpose. Such referendum election shall be held in the following manner: The city council or commission must call an election to determine the sentiment of the voters as to whether or not the board of education of the city shall be elected in the manner provided in this act. Said election shall be held and the officers appointed to hold the same shall be appointed in the manner provided by law for holding other municipal elections, and the returns thereof shall be tabulated and the results certified as provided by law for such elections. The election shall be held on the date of the first primary, general or special election held after the passage of this act, and notice thereof shall be given by the city clerk by publication at least three weeks before the date of the election, in a newspaper published in the city. The cost of the election, including the cost of publishing notices thereof, shall be paid out of the general funds of the city. On the ballots to be used in such election the question shall be in the following form: "Do you favor the election of the board of education of the city of _____ as provided in Act No. _____ of the 1971 Regular Session? Yes () No ()." Only qualified voters of the city shall vote in said election. If a majority of the voters voting in the election vote "Yes", this act shall thereafter be effective in the city holding the referendum; however, if a majority of the voters voting in said election vote "No", this act shall have no further force and effect in such city. The Probate Judge of the county in which such election is held shall certify the results of the referendum to the Secretary of State within thirty days after the determination thereof.

Section 6. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:36 P.M.

Act No. 797

H. 1037—Lang

AN ACT

To amend the title and Section 1 of Act No. 430, H. 696, Regular Session 1963 (Acts 1963, p. 954), which regulates the compensation of members of the county board of education in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 430, H. 696, Regular Session 1963 (Acts 1963, p. 954), is amended to read as follows:

“Relating to counties having populations of not less than 18,500 nor more than 20,500 according to the most recent federal decennial census; regulating the compensation and expenses of members of the county board of education.”

Section 2. Section 1 of said Act No. 430, H. 696, is amended to read as follows:

“In all counties having populations of not less than 18,500 nor more than 20,500, according to the most recent federal decennial census, each member of the county board of education shall be entitled to \$20 a day for attendance at meetings of the board, and also mileage at ten cents per mile for each mile traveled going from his residence to and returning from the meetings of the board; but no member shall be paid for attending more than 30 meetings in any one year. The per diem pay and mileage for members shall only be paid upon certificate of the county superintendent of education that the member actually attended the board meeting.”

Section 3. This Act shall become effective September 1,

Approved September 7, 1971.

Time: 1:37 P.M.

Act No. 798

H. 1038—Lang

AN ACT

To amend the title and Section 1 of Act No. 345, H. 981, Regular Session 1963 (Acts 1963, p. 838), which authorizes, provides for the

licensing of and regulates the operation of, and hunting on privately owned hunting preserves stocked with artificially propagated upland birds in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 345, H. 981, Regular Session 1963 (Acts 1963, p. 838), is amended to read as follows:

"An Act To authorize, provide for the licensing of, and to regulate the operation of, and hunting on privately owned hunting preserves, stocked by artificially propagated upland birds in all counties having populations of not less than 18,500 nor more than 20,500 according to the 1970 or any subsequent federal decennial census; to prescribe the fees for such licenses, provide for their collection and distribution; and to prescribe penalties for violation of this Act."

Section 2. Section 1 of said Act No. 345, H. 981, is amended to read as follows:

"This Act shall apply only in counties having populations of not less than 18,500 nor more than 20,500 according to the 1970 or any subsequent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:38 P.M.

Act No. 799

H. 1044—Smith (P)

AN ACT

Applying to Talladega County, authorizing applications for registration to vote to be made before the judge of probate or his employees, providing that such applicants need not appear in person before the board of registrars or any member thereof, and granting full rule-making power to the board of registrars to carry out the purposes of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Talladega County.

Section 2. Application for registration to vote may be made before the probate judge or before any employee of his office designated by him to receive such applications, during all regular office hours of the probate office, and no such applicant for registration shall be required to appear in person before the county board of registrars or any of its members.

Section 3. The board of registrars may make reasonable rules and regulations as it deems proper for the receipt of such

applications for registration and the accomplishing in as expedient a manner as possible for the registration of those entitled to register, but no person shall be registered until a majority of the board of registrars has passed favorably upon such person's qualifications.

Section 4. This act shall become effective only upon the ratification of a constitutional amendment adopted in the 1971 Regular Session of the Alabama Legislature authorizing the passage of such legislation.

Approved September 7, 1971.

Time: 1:39 P.M.

Act No. 800

H. 1046—Smith (P)

AN ACT

Relating to Talladega County, to provide an additional and alternative method of assessing, paying taxes on and issuing license tags for motor vehicles, in such county.

Be It Enacted by the Legislature of Alabama:

Section 1. On or after September 1st of each year, the judge of probate of Talladega County may, if he elects to do so, mail an application in the form and containing the information hereinafter provided to all owners of motor vehicles listed as such in the motor vehicle license records (including transfers) in his office or, at his option, to such owners as request that such application be mailed to them.

Section 2. The application shall be on a form to be provided by the state department of revenue. The application form shall contain a space for the name and address of the owner of the motor vehicle and the make, model, year and motor number of his motor vehicle and such other information with respect thereto as the state department of revenue may prescribe. The application form shall also contain a space for the correct amount of ad valorem taxes (state, county, school districts and municipal) and the amount of the motor vehicle license tax due thereon and the issuance fee, including the mailing fee provided for by this Act. The application form shall also contain a space for the owner to fill in his present address, if different from that shown in the application form, and a space for his signature.

Section 3. At the request of the judge of probate of the county, the tax assessor shall cause the application form to be filled in with the name and address of the owner, the description of the motor vehicle and the license tax and fees to become due

on October 1st succeeding, as shown on the license registration and transfer records in his office. The tax assessor shall cause to be correctly filled in thereon the amount of ad valorem taxes on said motor vehicle for the preceding tax year as provided by Title 51, Section 704, Code of Alabama 1940. The judge of probate shall thereupon cause the application, so filled in, to be mailed to the owner of the motor vehicle at his address shown thereon or at the address to which such owner requests that the application form be mailed.

Section 4. The owner of the motor vehicle shall, if he is still the owner of the motor vehicle and if he desires to pay his motor vehicle ad valorem taxes and license tax and secure his motor vehicle registration tag by mail, sign the application form, indicating thereon any change of address, and return the same by mail together with his remittance for ad valorem taxes, license taxes and fees as shown thereon to the judge of probate. Money orders for the payment of such taxes and fees shall be made payable to the judge of probate. Upon receipt of the signed application form and the remittance for the amount properly due for ad valorem taxes, license tax and fees, the judge of probate shall pay over to the tax collector the amount of ad valorem taxes. The tax collector shall verify the correctness of ad valorem taxes paid. The judge of probate shall thereupon mail a receipt for such taxes and fees and the license tag for his motor vehicle to the owner thereof.

Section 5. When an application is returned to the judge of probate unsigned or when less than the correct amount of the taxes and fees due therefor has been paid, due to a change of address or other causes, such application shall be returned to the owner for correction or for signature. A return of such application or remittance shall not, however, extend the time within which taxes may be paid or a tag secured. If more than the correct amount of taxes and fees is received, the judge of probate shall retain the correct amount of taxes and fees and return the excess together with the tag for the motor vehicle.

Section 6. All applications for motor vehicle tags by mail and the correct amount of taxes and fees shall be received by the judge of probate on or before November 10th preceding the November 15th on which the motor vehicle license tag is due and payable, and the judge of probate shall mail such tag on or before November 14th preceding such November 15th.

Section 7. The judge of probate shall charge and collect an additional fee of one dollar for each motor vehicle license tag issued by mail. This fee shall be paid with the mailed request for license tags. Such additional fee shall be paid by the judge of probate into the county treasury and the actual expense of mailing application forms to the owners of motor vehicles

and of mailing tags as hereinabove provided shall be paid from the county treasury upon warrant signed by the judge of probate and approved as provided by law.

Section 8. All the forms necessary in the administration of this Act shall be furnished by the state department of revenue.

Section 9. The procedure authorized by this Act for the payment of ad valorem taxes and motor vehicle license taxes and the issuance of license tags is optional, additional and alternative to the procedure now provided by law. Each owner of a motor vehicle shall continue to have the right to pay taxes and to receive his tag in person without the payment of any of the additional fees hereinabove provided. No judge of probate shall be required to collect taxes and issue license tags by mail unless he elects so to do.

Section 10. In each county to which this Act applies in which motor vehicles are assessed for ad valorem taxes and the motor vehicle license taxes are paid to and tags issued by a commissioner of licenses or other like officer or officers, such commissioner of licenses or other officer or officers shall have the rights and options and perform the respective duties imposed by this Act upon the judge of probate, tax assessor and tax collector.

Section 11. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:40 P.M.

Act No. 801

H. 1069—Drake, St. John

AN ACT

Relating to counties having populations of not less than 50,000 nor more than 52,500 according to the most recent federal decennial census; to provide further for expense allowances for the judge of the Intermediate Court in such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply only in all counties in this state having populations of not less than 50,000 nor more than 52,500 according to the most recent federal decennial census.

Section 2. In addition to all other compensation and allowances heretofore or hereafter provided by law, the judge of

the Intermediate Court in every county in which this Act applies shall be entitled to an allowance for expenses in the amount of thirty six hundred (\$3,600.00) dollars per annum, which allowance shall be paid in equal monthly installments out of the county treasury in every county in which this Act applies.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:41 P.M.

Act No. 802 H. 1091—Culver, Bank, Robertson, Parker (T)

AN ACT

Relating to Tuscaloosa County; to regulate the practice of barbering; prescribing the terms upon which licenses may be issued to practitioners of barbering, including students, apprentices, Journeymen and Hairstylist; regulating barber shops, barber schools and instructors; providing for the appointment of a County Board of Barber Commissioners, and defining the duties of said Board; prescribing fees; defining certain misdemeanors and providing penalties for violation thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this Act shall apply to Tuscaloosa County.

Section 2. DEFINITIONS—As used in this Act, unless the context otherwise required, the term:

(a) "Barber" shall mean any person licensed under the provisions of this Act to do the work of a barber.

(b) "Barber shop trade" includes shaving and trimming the beard, cutting and dressing the hair, massaging the face and head, giving facial and scalp massage or application of oils, creams, lotions, or other preparations, either by hand or by mechanical appliances, singeing, shampooing or dyeing the hair or applying hair tonic, applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face or neck, and rendering kindred personal services for compensation, provided, however, that such practices when done for the treatment of physical or mental ailments or diseases shall not constitute barbering.

(c) "Barber Shop" means without limitation any establishment having as its primary purpose the rendering for compensation of the several services constituting the barber shop trade.

(d) "Barber School" means without limitation any establishment rendering for compensation the several services constituting the barber shop trade, but having for its primary purpose the teaching, for tuition fees, of the theories and practices of such services.

(e) "Student" shall mean any person attending barber school for the purpose of learning the theories and practices of the barber shop trade and who receive no compensation for so doing.

(f) "Apprentice" shall mean any person practicing in a barber or haircutting shop to acquire the skill of a barber or haircutter after having completed the requirements of a student, under the provisions of this Act.

(g) "Teacher" or "Instructor" shall mean any person who instructs or attempts to instruct another in the science, arts and skill of a barber or haircutter.

(h) "Board" or "The Board" or "Barbers' Commission" shall mean the Board or Board of Commissions created by this Act.

(i) In this Act, words used in the masculine gender include the feminine and neuter genders, and words used in the neuter gender include the masculine and feminine genders.

(j) "Hairstylist" shall mean any journeyman barber who specializes in the styling of hair.

Section 3. COUNTY BOARD OF BARBER COMMISSIONERS—There is hereby created a Barbers' Commission for Tuscaloosa County. The Governor shall appoint three persons, each of whom, immediately prior to the date of his appointment has been a resident of said county for the past three years, and who has had at least five years experience as a barber; one member to be appointed for a term of one year, one member to be appointed for a term of two years, and one member to be appointed for a term of three years; provided, however, that in the county to which this Act applies two members of said Commission shall be residents of the largest metropolitan area in said county and the third member of said Commission shall be a resident of any smaller metropolitan area in said county; provided further, that in the county to which this Act applies which have in existence at the time of the passage of this Act, a Barbers' Commission, the members of said Commission then serving as such Barbers' Commission shall constitute the

initial Board of Barbers' Commissioners of said county and they shall continue in office until the expiration of their respective terms or unless sooner disqualified; thereafter the term of any member appointed and qualified to succeed the members of the Barbers' Commission of said county first appointed shall be for three years and until their successors are appointed and qualified. Vacancies shall be filled in the following manner: The Commission shall, sixty (60) days prior to the expiration of the term of any commissioner of the Barbers' Commission for said county give notice in writing to the licensed barbers of said county that there will be a vacancy on the date of the expiration of the term of the commissioner whose term is about to expire; or if a vacancy be caused for any reason other than the expiration of the term, the Barbers' Commission shall within thirty (30) days after such vacancy occurs, give notice to the licensed barbers of said county of the existence of such vacancy. In this event said barbers will be requested to nominate three barbers to fill each vacancy thus occasioned; and to that end a ballot shall be prepared and enclosed along with the letter notifying the barbers of the vacancy or vacancies; the said ballot reading as follows: "I hereby nominate for appointment by the Governor of the State of Alabama to the Board of Barber Commissions for Tuscaloosa County the following named persons:

The ballots shall be numbered and identified in such manner as to prevent anyone employing any ballot other than that forwarded the licensed barber entitled to vote. In addition to the ballot, the Barbers' Commission shall forward the licensed barber an envelope addressed to the Barbers' Commission and properly stamped with United States postage. When the ballots are returned they shall be opened on a day designated in the notification, in the presence of the Barbers' Commission then serving, and the ballots shall be counted and the names of the three barbers who shall receive the greatest number of votes shall be selected as the three nominees. The Barbers' Commission shall then certify to the Governor of the State of Alabama the names of the three barbers receiving the highest number of votes and the Governor shall appoint one of those three persons thus designated to fill the vacancy. If more than one vacancy exists at any time, there shall be nominated in the manner above designated and certified to the Governor three nominees for each such vacancy so that if there be one vacancy there shall be three nominees, if there be two vacancies there shall be six nominees, and if there be three vacancies, there shall be nine nominees, certified to the Governor of Alabama, who shall select for appointment one nominee from each group thus nominated. The Commission, immediately upon the quali-

fication of the member appointed each year, shall organize by selecting from its members a chairman, and may do all things necessary or convenient for carrying into effect the provisions of this Act. The members of the Commission shall receive as full compensation for each day actually spent in the work of said Commission the sum of Twenty Dollars (\$20.00) per day; and his actual and necessary expenses thereby incurred, not to exceed \$4.00 per day. The Commission shall appoint and at its pleasure a Secretary-Treasurer and such assistants as may be deemed necessary to discharge and faithfully carry out the duties imposed by the provisions of this Act; provided however, that no person hired hereunder shall be related by blood or marriage to any member of the Commission. The individual so appointed shall be required to enter into a bond to be approved by the Commission in the sum of not less than Ten Thousand Dollars (\$10,000.00), conditioned to pay any shortage or loss of funds on hand by said Secretary-Treasurer during his term of office, or at the time that he is holding office. Said Commission shall outline the duties and fix the compensation of the Secretary-Treasurer. The Commission shall obtain such office space, furnishings, and other proper conveniences as shall be reasonably necessary for carrying out the provisions of this Act. The principal office of said Commission shall be located in the county seat of said county, provided, however, that upon the request of said Commission, the County Commissioners of said county shall furnish an office in the Courthouse without charge. The Commission shall adopt a seal with such design engraved thereon as it may prescribe, by which it shall authenticate its proceedings. In addition thereto, the Board is empowered to make reasonable inspection of the barbers and barber shops and barber schools and barber colleges of said county to the end that proper methods of sanitation and sterilization are observed. Copies of all records and papers in the office of the Barbers' Commission duly certified and authenticated by its seal shall be received in evidence in all courts with like effect as the original. All the records kept in the office of the Board and under authority of this Act shall be open to public inspection under such rules and regulations as shall be prescribed by the Commission. All fees and charges collected by the Board under the provisions of this Act, shall be paid to the Treasurer of the Commission; said funds shall be used and kept exclusively in the hands of the Treasurer of this Commission, and shall be used for purposes not inconsistent with this Act, under the direction of the Commission. Funds may be disbursed by order of the Board on a check being drawn by the Treasurer upon such funds, as may be on hand, and approved by the Chairman of the Board for the purpose of paying all of the expenses incurred by the Board, including the compensation of members of the Board and its

employees, provided the total expenses for every purpose incurred shall not exceed total fees and charges collected and paid in to the Treasurer.

Section 4. PROMULGATION OF RULES AND REGULATIONS—

(a) The Board shall have authority to make reasonable rules for the administration of the provisions of this Act. Copies of all rules adopted by said Board shall be furnished to each barber and each barber school or college.

(b) No rule may be adopted or amended at the same meeting at which it is proposed.

(c) All rules adopted hereunder shall have the same force and effect of law unless set aside by a court of competent jurisdiction or repealed by said Board.

Section 5. APPRENTICE QUALIFICATIONS—

(a) Any person shall be qualified to receive a license as an apprentice barber provided:

1. He is at least eighteen (18) years of age and is of good moral character and temperate habits; and

2. He has graduated from an approved school or college of barbering, which school has been approved or licensed under the provisions of this Act; and

3. He passes a satisfactory examination conducted by the Barbers' Commission to determine his fitness to practice as an apprentice; and

4. He has a 12th grade education or equivalent thereof; and

5. He has obtained a medical certificate as required by this Act; and

6. He has paid the required fee specified by this Act.

(b) An applicant for license who fails to satisfactorily complete an examination conducted by the Commission may apply for re-examination at any future meeting of the Commission. Upon making application therefor and payment of the required fee, said applicant shall be permitted to again take said examination.

(c) No apprentice may independently practice barbering, but he may, as an apprentice, do any and all of the acts constituting the practice of barbering under the immediate personal supervision of a licensed barber.

Section 6. JOURNEYMAN QUALIFICATIONS—

Any person having made application for a Journeyman barber license shall be qualified to receive such license to practice as a barber provided:

(a) He is qualified under the provisions of Section 5 of this Act; and

(b) He has practiced as an apprentice barber for a period of twenty-four (24) months on a full time basis under the immediate personal supervision of a licensed Journeyman barber; and

(c) He has passed a satisfactory examination conducted by the Board to determine his fitness to practice as a Journeyman barbering; and

(d) He has paid the required fee specified in this Act.

Section 7. APPLICATION OF NON-RESIDENT BARBERS OR APPRENTICES—

Any apprentice or non-resident barber who is at least eighteen (18) years of age and of good moral character and temperate habits and has a license as an apprentice in another State or County which has substantially the same requirements for licensing an apprentice as is provided in this Act, or who can prove by sworn affidavits that he has practiced in another County or State for at least six months prior to making application in this State, shall upon payment of the required fee, be granted permission to take an examination to determine his fitness to receive a license as an apprentice. Should he pass the required examination, and have complied with all other applicable provisions of this Act, a license as an apprentice shall be issued to him. In this event the time spent in such other State or County as an apprentice shall be credited upon the period of apprenticeship required by this Act, toward qualifying for the examination to determine his fitness to receive a license as a barber.

Section 8. HOW TO MAKE APPLICATION FOR LICENSE:

Any person desiring to practice barbering, or desiring to practice as an apprentice barber, shall file with the Secretary of the Board a written application, under oath, on a form prescribed by the Board, together with two photographs of the applicant 2 x 3 inches in size, and satisfactory proof that applicant is of good moral character and also furnish the Board with a certificate issued by the County Health Department from a practicing medical physician of said county showing that appli-

cant is free from contagious, infectious or communicable disease, including gonorrhea, syphilis, and tuberculosis.

Section 9. EXAMINATIONS—

(a) The Board shall conduct examinations for applicants for licenses to practice as Journeymen, Hair Stylist, barbers and as apprentices at least four times each year, at such times and places as the Board shall determine. Such examination shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools and colleges of barbering approved by the Board. Licenses to Journeyman, Hair Stylists, barbers or apprentices shall be issued by the Board to any applicant who shall have passed the examination therefor, by making an average grade of not less than 70% and who shall possess the other qualifications required by this Act.

(b) Whenever the Board shall be requested to give a special examination, the applicants taking such examinations shall pay an additional fee of \$25.00.

Section 10. BARBER SHOP OPERATOR QUALIFICATIONS—

A person shall be qualified to receive a barber shop operator's license provided:

(a) He holds a Journeyman, Barber or Hair Stylist License; and

(b) He is in compliance with the other applicable provisions of this Act.

Section 11. PERSONS ENTITLED TO LICENSE WITHOUT INITIAL EXAMINATION—

Any present resident of the county to which this Act applies, who is engaged in the practice of barbering for a livelihood without a license or who holds a license as a barber or apprentice, or any barber school or college in operation at the time of the passage of this Act shall automatically be granted a license without an examination by making application to the Commission on or before the 1st day of January, 1968, and upon paying the annual renewal fee specified herein for barbers, apprentices, and barber schools or colleges, provided that such applicant has been issued a medical certificate as required herein. It is further provided that any person licensed under the provisions of this Act, who subsequent to such licensing is unable to obtain the physician's certificate hereinbefore provided for, shall be entitled to an "inactive" license upon compliance with all the other provisions of this Act, and shall be again fully licensed without additional examination, at such time

thereafter as he obtains and files the physician's certificate hereabove required.

Section 12. PERSONS, FIRMS OR CORPORATIONS TO WHICH THIS ACT IS NOT APPLICABLE—The following are exempted from the provisions of this Act:

(a) Persons licensed by law of this State to practice medicine, surgery, osteopathy, or chiropractry.

(b) Commissioned medical or surgical officers of the United States Army, Air Force, Navy or Marine hospital service.

(c) Registered Nurses

(d) Hairdressers and beauty culturists, insofar as their usual and ordinary vocation and profession is concerned, including light hair trimming incidental to waving of all kinds.

(e) Undertakers or morticians.

(f) All barber schools and colleges and instructors employed therein by the State or County Department of Education.

Section 13. DISPLAY OF CERTIFICATE—Every holder of a license shall display it in a conspicuous place in his place of business.

Section 14. FEES—The Board of Barber Commissioners shall charge and collect the following fees:

(a) The original as well as any subsequent examination fee for Journeyman, Hair Stylist, barber or apprentice shall be \$25.00 per examination. Any such fee shall also include the cost of the issuance of any such barber or apprentice license which may thereafter be issued; and \$10.00 thereof shall be refunded if such person fails to pass the examination.

(b) For the annual renewal of a barber or apprentice license, a fee of \$10.00 shall be charged, provided, however, that this fee shall be waived for any barber who has been sick and out of work for as much as one year next preceding that date such fee shall become due, a physician's certificate and affidavit of such barber being submitted as proof of such facts.

(c) For restoration of an expired barber or apprentice license, a fee of \$15.00 shall be charged. Upon the payment of such fee such license shall be restored without examination provided application is made therefor, within a period of one year from the date of the expiration of any such license.

(d) For the application and issuance of a new barber shop operator's license a fee of \$50.00 shall be charged.

(e) For the annual renewal of a barber shop operating license, a fee of \$5.00 shall be charged.

(f) For the application and examination of teacher applicant and issuance of a teaching certificate or license a fee of \$50.00 shall be charged.

(g) For the annual renewal of a teacher's certificate or license a fee of \$25.00 shall be charged.

(h) All licenses required under this Act shall be renewed annually on or before January 1.

(i) A duplicate license will be issued upon the filing of a statement covering the loss of such license, verified by the oath of the applicant, and accompanied by the payment of a fee of \$10.00 for the issuance of same. Each duplicate license shall have the word "Duplicate" stamped across the front thereof and will bear the same number as the originally issued license.

Section 15. EXEMPTIONS PERTAINING TO PERSONS IN ARMED FORCES —

Any person who, after the passage of this Act, and approval by the Governor, or upon its otherwise becoming a law, shall enter the active military or naval service of the United States, or of this State and who, at the time of such entry, was the holder of a license as a barber, or apprentice, and which license was then in full force and effect, shall be granted a like license upon presentation to such Board of Barber Commissioners of an Honorable Discharge from such military or naval service, dated not more than one year prior to the time of such presentation, and a medical certificate as required under the provisions of this Act, attesting that the person presenting it is free from any contagious or infectious or communicable disease, which certificate shall be dated not more than 30 days prior to the time of such presentation and provided further such person shall pay a fee of \$10.00 for the issuance of such license as required by this Act.

Section 16. GROUNDS FOR SUSPENSION, REVOCATION OR REFUSAL TO ISSUE A RENEWED LICENSE—The Board is hereby vested with the power and authority to refuse to issue or renew as well as the power to suspend or revoke any license for any one or a combination of the following causes:

- (a) Conviction of a felony.
- (b) Malpractice or incompetence.
- (c) When applicant barber or apprentice barber is, or becomes, afflicted with an infectious or communicable disease.
- (d) Advertising by false or deceptive means.

(e) Advertising, practicing, or attempting to practice under another's trade name or under another's name.

(f) Habitual drunkenness or habitual addiction to use of morphine, cocaine, or other habit forming drugs.

(g) The violation of any of the sanitary regulations promulgated by either the Barbers' Commission or the Alabama State Department of Health for the regulation of barber shops and barber schools or colleges.

(h) Conviction of a violation of any City Ordinance or County or State law pertaining to the regulations of barber shops or barber schools or colleges.

Section 17. HEARINGS.

No action in refusing to issue or renew or in suspending or revoking a license for any of the causes enumerated in the foregoing Section shall be taken until the accused has been furnished with a statement of the specific charges against him and notice of the time and place of hearing thereof. The accused may be present at the hearing in person and may be represented by counsel if he so desires. Statement of the charges and notice thereof must be served personally upon such person, or mailed to his last known address at least ten (10) days prior to the hearing. If upon such hearing the Board finds the charges to be true, it may refuse to issue or renew a licence or may revoke or suspend such license if the same has been issued.

It shall be the duty of the Board to subpoena witnesses other than character witnesses, for or against the accused upon written request and affidavit that their testimony is necessary, and the production of relevant books and papers may be also procured by subpoena.

A public hearing shall be ordered after not less than ten (10) days written notice to the parties at interest. The Board shall not be bound by the technical rules of evidence but shall seek diligently all of the information and evidence bearing on the merits of the case.

Within ten (10) days after the conclusion of the hearing, the Board shall render its decision in writing. Copies of the decision shall be delivered to all parties at interest.

The Board may require that testimony introduced at hearings be recorded by a court reporter, but same shall not be transcribed except upon further order.

Any person aggrieved by the decision or ruling of the Board, as provided for in the preceding Section, may appeal from such action to the Circuit Court of said county within ten (10) days

after such final determination of the Board, by filing written notice thereof with the Board. Upon any such appeal a trial shall be de novo.

Section 18. BARBER SCHOOL PREREQUISITES—

(a) An application for a license and approval as a registered school or college of barbering shall contain, under oath, the following:

1. The full name of the applicant.
2. The residence of the applicant, and if an Association or corporation, the same information of the members of the association and of the stockholders and directors of the corporation.
3. The exact location where the school or college is located or proposed to be located.
4. Whether or not the school or college is owned or leased, and if leased, the name and residence of the owner, or if an Association or corporation, the same information of the members of the Association and of the directors and stockholders thereof.
5. Evidence that a bond in the amount of \$25,000.00 has been filed with the State Treasurer and made payable to the State of Alabama, conditioned upon the faithful compliance of the barbering school or college with all the provisions of this Act.

(b) No private school or college of barbering which does not come within the jurisdiction of the Alabama State Board of Education shall be approved by the Commission and no license shall be issued to operate or conduct any such school or college of barbering unless and until such school or college shall have complied with all of the required provisions of this Act.

(c) No person, firm or corporation may be licensed to operate or conduct said barber school in said county unless the owner be a citizen of the United States and a qualified elector of Alabama, and if a corporation, the officers thereof shall be so qualified, and unless each person who is directly connected with the instructional program shall have had at least four years of continuous experience as a licensed barber in said county; that all of such teachers are citizens of the United States and have been resident citizens of said county for at least four years; provided, however, any licensed barber may be hired to assist in giving practical instruction in any barber school or college.

(d) Upon receipt of application for registration or license for a privately owned and operated barber school or college not coming within the jurisdiction of the Alabama State Depart-

ment of Education, said Commission shall make investigation of the applicant, the qualifications of the teachers of the school or college and the equipment, appliances and sanitary facilities thereof and determine whether the course of study maintained by such school or college, practical and otherwise, is designed to equip students with sufficient knowledge of barbering so that they may pursue the same in said county, in accordance with the provisions of this Act, Alabama Statutes, and the rules and regulations prescribed by said County Barber Board and if upon such investigation, the Board finds that such applicant meets the requirements of law, and that said school or college has adopted a curriculum approved by the Board, a barbering school or college license shall be issued to said applicant upon the payment of a fee of \$500.00. Unless otherwise disqualified, a school or college license may be renewed each year thereafter by the payment of a license fee of \$50.00. All such licenses shall be renewed on or before January 1 of each year. Any school or college failing to renew its license on or before January 1 of each year, may renew said license, if otherwise qualified by paying a renewal fee, plus a penalty of \$10.00 per month for each month or part thereof that said license is delinquent, provided that no such license can be thus renewed after twelve months delinquency.

(e) Every licensed barber school or colleges where students are instructed shall display a sign at each entrance to the school in at least six-inch lettering, stating that all work in said school or college is done by students.

(f) Any licensed school or college which may register a student, or students, shall immediately certify all such students to the Board for a qualified certificate. The school or college shall submit names, addresses, a doctor's certificate certifying each such student is free from any contagious disease, educational record showing the applicant to have graduated from the 12th grade or its equivalent as determined by the State Department of Education, and any other information which the Board may deem necessary. Each application shall be accompanied by a student's registration fee of \$2.00, upon receipt of which, if the student is found to be qualified, the Board shall issue a qualified student certificate.

(g) Every licensed barber school or college shall have not less than one instructor for every 15 students at such school or college.

Section 19. MISCELLANEOUS PROVISIONS—

(a) Nothing contained in this Act shall be construed to prevent the Department of Health of the State of Alabama or any local Board of Health or other board or body, exercising the powers of such local boards, from enacting and enforcing ordin-

ances, codes, rules and regulations pertaining to sanitation in barber shops, in excess of the provisions of this Act, for which authority they have been or may be granted by law.

(b) No owner or manager of a barber shop or barber college shall employ any person as a maid or porter unless said person has on file a health certificate signed by a licensed practicing physician stating that said employee is free from any communicable or contagious disease or from a venereal disease.

(c) Any person or corporation who shall practice barbering or maintain a school of barbering or a barber shop, or act in any capacity where any certificate or license is required under this Act without a certificate or license as provided in the Act, or shall in any other form or manner violate any of the provisions of the Act or any rules and regulations of the Board, shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500 or imprisoned for not more than six months, or both.

Section 20. SEVERABILITY—

The Sections of this Act and the parts of each Section are hereby declared to be independent parts of Sections, and the holding of any Section or part thereof to be void, ineffective, or unconstitutional for any cause, shall not affect the other sections or parts thereof, and it is now declared that the other parts or sections would have been enacted regardless of any section or parts of sections which might be held unconstitutional, inoperative or ineffective.

Section 21. REPEALING CLAUSE—

All laws or parts of laws inconsistent or in conflict with this Act are hereby expressly repealed, it being the legislative intent that the terms of this Act shall be fully effective and all laws or parts of laws heretofore enacted to the contrary, notwithstanding.

Section 22. EFFECTIVE DATE OF ACT BECOMING LAW—

The provisions of this Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:42 P.M.

Meeks, Bowers, Waggoner, Jones (E),
Adwell, McBride

AN ACT

AUTHORIZING ANY WATER WORKS BOARD OF ANY CITY HAVING A POPULATION OF 300,000, OR MORE, ACCORDING TO THE LAST OR ANY SUBSEQUENT FEDERAL CENSUS TO LEASE ANY LAND OWNED OR CONTROLLED BY SAID WATER WORKS BOARD TO ANY PUBLIC AUTHORITY OF THE SAME CITY CREATED UNDER ACT NO. 215 OF THE REGULAR SESSION OF THE LEGISLATURE OF ALABAMA OF 1947, APPROVED JULY 24, 1947 (ALA. ACTS OF 1947, P. 81 ET SEQ.), FOR ANY CONSIDERATION AGREEABLE TO THE WATER WORKS BOARD AND SUCH PUBLIC AUTHORITY, AND AUTHORIZING SUCH WATER WORKS BOARD TO ENTER INTO SUCH LEASE WHEN THE ONLY CONSIDERATION THEREFOR IS THE BENEFIT ACCRUING FROM THE PUBLIC USE OF THE LAND FOR THE PURPOSES FOR WHICH SAID ACT NO. 215 PROVIDES SUCH PUBLIC AUTHORITY IS CREATED, SUBJECT TO THE CONDITIONS PRESCRIBED BY THIS ACT.

Be It Enacted by the Legislature of Alabama:

Section 1. This Act shall apply to every city of the State of Alabama having a population of 300,000, or more, according to the last or any subsequent Federal census, to any public corporation organized under Act No. 215 of the Regular Session of the Legislature of 1947 (Ala. Acts, 1947, p. 81 et seq.) and to the water works board of such city; and this Act shall not apply to any other city, public corporation or water works board.

Section 2. As used herein the following terms have the meanings hereby ascribed to them: "the city" means any city to which this act applies upon or after its enactment; "water works board" means any water works board to which this Act applies upon or after its enactment; "Act 215" means Act No. 215 mentioned in Section 1, above, as amended; and "amusement authority" means any public corporation organized pursuant to Act 215.

Section 3. The water works board and the amusement authority of the same city may enter into a lease with each other whereby the water works board leases land owned or controlled by it to the amusement authority for any consideration agreeable to the water works board and the amusement authority. Any such lease is authorized although the only consideration therefor is the benefit accruing to the public from using the land for the purposes provided for in Section 4 of this Act. The power this Act confers upon the water works board shall be subject to the provisions of Sections 4, 5 and 6 of this Act.

Section 4. No water works board shall make any lease hereunder unless the lease restricts the use of such land by the lessee and by those entering thereon with the lessee's consent or permission to purposes for which Act 215 provides the

amusement authority is created. No amusement authority shall use any land leased to it hereunder, or permit others to use such land, in any activity or undertaking in which Act 215 does not authorize such amusement authority to engage.

Section 5. No lease made hereunder shall impair, or in any way affect, the lien, or enforcement, of any mortgage, deed of trust, or other security, executed by the water works board prior to the execution of the lease.

Section 6. A lease by and between a water works board and an amusement authority hereunder shall not result in any dedication of the leased land, or of any part thereof, for park purposes or for any other purpose.

Section 7. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

Section 8. This Act shall become effective on its approval by the Governor or on its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:43 P.M.

Act No. 804

H. 1217—Meeks, Boutwell, Adwell

AN ACT

TO AMEND ACT NO. 497 OF THE REGULAR SESSION OF THE LEGISLATURE OF ALABAMA OF 1965 (ALA. ACTS 1965, p. 717 et seq.), AS HERETOFORE AMENDED, WHICH SAID ACT ESTABLISHED A RETIREMENT AND PENSION SYSTEM FOR THE OFFICERS AND EMPLOYEES OF JEFFERSON COUNTY, ALABAMA.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act No. 497 of the Regular Session of the Legislature of Alabama of 1965, approved August 20, 1965 (Ala. Acts, 1965, p. 717 et seq.), is hereby amended so as to read as follows:

Section 4 (a). Membership. All officers or employees including retired officers or employees, who are members of either of the previous retirement systems on the date of the establishment of this system shall become members of this system as of the date of its establishment. Except as herein otherwise provided, every person who is an employee of the County on the effective date of this Act, shall become a member of the system as of such date. Any person who is an employee of the County on the effective date of this Act and who is not a member of either of the previous retirement systems on said

date shall not become a member of the system unless and until he exercises his option to become a member within the time and in the manner hereinafter provided. The next foregoing sentence shall apply to every employee not belonging to either of the previous retirement systems on the effective date of this Act, regardless of whether he is, or is not, subject to the civil service system applicable to the County. Except as herein otherwise provided, every person becoming an employee of the County subsequent to the effective date of this Act and occupying a position subject to the civil service system applicable to the County shall become a member of the system on the date he enters the service of the County. Except as herein otherwise provided, every person becoming an employee of the County subsequent to the effective date of this Act and occupying a position not subject to the Civil Service System applicable to the County shall not become a member of the system unless he exercises his option to become a member in the manner and within the time hereinafter specified. Anything to the contrary above notwithstanding, a person whose employment is temporary shall not become a member of the system so long as his employment remains temporary. A person's employment shall be deemed to be temporary within the meaning of this Section 4 if such employment is temporary as defined by the civil service system applicable to the County, or if the officer board, commission or agency employing such person certifies in writing to the Pension Board that said employment is temporary. A person who is an officer of the County on the effective date of this Act and who does not belong to either of previous retirement systems on said date and any person who becomes an officer of the County subsequent to the effective date of this Act shall have the option to become a member of the system in the manner and within the time hereinafter specified. Any officer or employee who has the option to become a member of the system shall state, on a form furnished by the Pension Board, or by the Secretary of said Board, that he elects to become a member; and he shall become a member on the first day of the calendar month next succeeding the month in which he completes the said form and files it in the office of the Pension Board. A person serving as an employee or officer of the County on the effective date of this Act and who is granted such option shall have six (6) months from said date in which to exercise the said option. A person becoming an officer or employee of the County subsequent to the effective date of this Act and who is granted such option shall exercise said option within six (6) months from the date on which he enters the service of the County. The period during which one is temporarily employed by the County shall not be considered in determining the said six (6) months. The option, once exercised, shall be irrevocable.

If a person who has exercised his option to become a member of the system thereafter leaves the service of the County and returns to the service of the County, he shall become a member of the system upon the date on which he returns to the service of the County if he occupies a position rendering him eligible for membership in the system.

(b). As used in this subsection (b) of this Section 4, the following terms have the meanings hereby ascribed to them: "effective date hereof" means the date on which this subsection (b) becomes a law; "request for exclusion" means the written request of a member signed by him and filed with the Board asking that he be excluded from the pension system; "person eligible for membership" means a person not belonging to the system who is eligible for membership on the effective date hereof, or who would be eligible for membership on said date if the time allowed him for becoming a member had not expired; "date deductions commence" means the first day of the first calendar month following the effective date hereof if that day is as much as 15 days subsequent to the effective date hereof, and if that day is not as much as 15 days subsequent to the effective date hereof "date deductions commence" means the first day of the second calendar month following the effective date hereof.

On the effective date hereof all persons eligible for membership shall become and shall remain members of the system; provided, however, that any person hereby made a member may be excluded from membership by filing his request for exclusion within the time below stated. On and after the date deductions commence, as above defined, the total salary proviso, as defined in subsection (d) of Section 9 of this Act, shall apply to the salaries of all persons hereby made members earned after said date and retroactively to all salaries earned by them prior to that date, except those members who before said date file a request for exclusion. Such proviso shall not apply to any person who files such request before the date such deductions commence.

After the salary deductions commence as to any person, the total salary proviso shall continue to apply to him so long as he is a member, unless within 30 days after the date deductions commence he files his request for exclusion. Upon his filing such request for exclusion within said 30 days, he shall be excluded from the system; and the deduction shall no longer apply to his salary. Upon a person filing his request for exclusion, within the prescribed time, the Board shall promptly return to him any salary deductions the pension fund received from his salary on account of his becoming hereby subject to the total salary proviso; and the Board shall promptly return to the County any matching payments the pension fund received

from the County on account of such member becoming subject to such proviso hereunder.

A person's liability as to his deficiency of deductions, resulting from his becoming a member hereunder, as to salary earned by him before he hereby becomes a member and as to interest in respect to such deficiency, and the method of his discharging such liability, shall be governed by the provisions of subsection (h) of Section 9; provided, however, that all the unpaid membership time of one becoming a member hereunder must be converted to paid membership time.

(c). Report of County Officials. It shall be the duty of the county personnel board and the head of each agency of the County government employing persons who are members, or entitled to become members, of the system to submit to the Board such statements as the Board shall require as to the name, title, compensation, duties, date of birth, and length of service of each such person.

Section 2. Subsection (d) of Section 9 of Act No. 497 of the Regular Session of the Legislature of Alabama of 1965, approved August 20, 1965 (Ala. Acts 1965, p. 717 et seq.), is hereby amended so as to read as follows:

(d) Part (1). The term "total salary proviso" shall mean the provisions contained in this subsection (d) of Section 9 of the Act which accord any person who is a member of the system on September 2, 1966, the option to subject to the salary deductions provided for in this Section 9 all salary earned by him from the County, including salary earned by him prior to exercising such option.

Any person who is a member of the system on September 2, 1966 may elect, within the time and in the manner hereinafter stated, to make all of his salary, including salary theretofore received by him subject to the salary deductions provided for in this Section 9 of provided for by Acts governing the previous retirement systems. If a member elects to become subject to the total salary proviso, within the time and in the manner hereinafter provided, then all of his salary paid to him by the County shall be subject to said deductions at the rate of six percent (6%) of his monthly salary commencing on the first day of the calendar month next succeeding the month in which he exercises said option. The total salary proviso shall not apply retroactively to the salary earned by him prior to his exercising said option unless he expressly elects that the total salary proviso shall have retroactive application; and the total salary proviso shall have retroactive application only for such period of time as the member elects. In order to make such election, the member shall state, on a form furnished by the

Pension Board or by the Secretary of said Board, that he elects to become subject to the total salary proviso; and if he elects to make the total salary proviso apply retroactively, he shall state the period for or during which the said proviso shall have retroactive application. If such proviso is to apply retroactively on only part of his prior service, then he shall subject to the retroactive effect of such proviso that period of his previous service when his average monthly salary was at least as high as his average monthly salary during any other period of his previous service of the same duration as the period selected to be subjected to the said total salary proviso. The election as to the application of such proviso shall be made within six (6) months from September 2, 1966. The election shall be irrevocable. For the purpose of salary deductions, a member shall be deemed to have earned salary at his actual rate of salary during all the period for which he makes the total salary proviso apply retroactively.

Part (2). As used in this Part (2) of subsection (d) of Section 9, the following terms have meanings hereby ascribed to them: "hereof" means of this Part (2); "hereby" means by this Part (2); "effective date hereof" means the date on which this Part (2) becomes a law; "herein" means in this Part (2); "subject hereto" means subject to this Part (2); "excluded therefrom" means excluded from the total salary proviso; "said proviso" means the total salary proviso; "service not subject to said proviso" means any part of a member's paid membership time which on the effective date hereof had not been subjected to said proviso; "request for exclusion" means the written request for exclusion signed by a member and delivered to the Board, whereby the member requests that he be excluded from said proviso; "date deductions commence" means the first day of the first calendar month following the effective date hereof, if that day is as much as 15 days subsequent to the effective date hereof; and if that day is not as much as 15 days subsequent to the effective date hereof, "date deductions commence" means the first day of the second calendar month following the effective date hereof.

On the effective date hereof all members shall be subject to the total salary proviso, and shall remain subject thereto; provided, however, that any person hereby made subject to said proviso may be excluded therefrom by filing his request for exclusion within the time below stated.

After the date deductions commence, as above defined, the total salary proviso shall be applied to the salaries of all members earned after said date and retroactively to all salaries earned by them prior to that date, except those members who before said date file the request for exclusion. Such proviso shall not

apply to any person who files such request before the date deductions commence.

After the date deductions commence as to a member, as provided for above, the total salary proviso shall continue to apply to him so long as he is a member, unless within 30 days from the date deductions commence he files his request for exclusion. Upon his filing the request for exclusion, within said 30 days, said proviso shall no longer apply to his salary. Upon a person filing his request for exclusion, within the prescribed time, the Board will promptly return to him any salary deductions the pension fund received from his salary on account of his becoming hereby subject to the said proviso; and the Board will promptly return to the County any matching payments the pension fund received from the County on account of such member becoming subject to said proviso hereunder.

Subsections (f) and (g) of this Section 9 shall govern a member's liability as to deficiency of deductions for salary he earned before the date deductions commence and for interest thereon and shall also govern the method of discharging such liability.

No member subject to the total salary proviso before the effective date hereof shall be excluded therefrom.

Section 3. Subsection (a) of Section 10 of Act No. 497 of the Regular Session of the Legislature of Alabama of 1965, approved August 20, 1965 (Ala. Acts 1965, p. 717, et seq.), as heretofore amended, is hereby further amended so as to read as follows:

(a) Within the meaning of this Section 10 two (2) periods of service shall be deemed to be consecutive if the latter period of service commences within ninety (90) days of the termination of the earlier period of service.

Anything herein to the contrary notwithstanding, no pension shall be payable hereunder, based upon length of service, unless the person receiving the pension shall have been in the service of the County for three (3) consecutive years immediately preceding his retirement; provided, however, that the requirement of three (3) consecutive years service, immediately preceding retirement, shall not apply to any member who retired, or became eligible for retirement, under this Act prior to the adoption of the provision imposing the said requirement of three (3) consecutive years service immediately preceding retirement.

When any member of the retirement system established by this Act has not less than ten (10) years paid membership time, as defined in Section 1 of this Act, and has attained the

age of sixty (60) years, he shall be eligible for retirement for super-annuation but such retirement shall not be compulsory.

Subject to the limitation stated in the sentence next following this sentence, it is hereby provided that any member who has attained the age of fifty-five (55) years on January 1, 1962, and has made contributions to the system for a period of not less than five (5) years, and has attained the age of sixty (60) years shall be eligible for retirement for super-annuation but such retirement shall not be compulsory. The provision of the next foregoing sentence shall not apply to any person except one who retired under this Act prior to September 1, 1969, or one who on said date was employed by the county and was also on said date a member of this pension system.

Any member shall be eligible for retirement for super-annuation upon the completion of thirty (30) years or more of service with the County, at least ten (10) years of which shall be paid membership time; provided, however, that if at the time of retirement such member has not attained the age of sixty (60) years, the amount of his monthly pension computed in accordance with the formula set forth in subsection (b) hereof, shall be reduced as hereinafter provided. Any member who is eligible for retirement and who desires to retire, shall be granted the benefits herein provided for upon a written application by himself, or, in the event he is mentally or physically incapacitated, by someone acting in his behalf, upon application to be filed in the office of the Pension Board.

Any member not entitled to voluntarily retire under the foregoing provisions who shall be involuntarily retired after having accumulated eighteen (18) years of service with the County, at least ten (10) of which shall be paid membership time, shall be entitled to receive a monthly pension computed in accordance with the formula set forth in subsection (b) hereof, the payment of which pension will commence at the time hereinafter stated; provided, however, that no member shall be entitled to such pension unless he pays into the fund of the system between the date of his retirement and the date on which the pension will commence the amounts hereinafter specified. The term "deferred pension", as used herein, means the pension provided for in the next foregoing sentence. If a member be involuntarily retired after having accumulated eighteen (18) years of service with the County, at least ten (10) of which years shall be paid membership time, and if he shall make the payments to the fund of the system hereinafter prescribed, payment of his deferred pension shall commence upon that date of the two following dates which first comes: (1) the date on which he attains the age of sixty (60) years; or (2) the date on which he would have completed thirty (30) years' service with

the County, if instead of retiring he had continued in the service of the County; provided, however, that if at the time payment of the deferred pension commences he has not attained the age of sixty (60) years, the amount of his monthly pension computed in accordance with the formula set forth in subsection (b) hereof shall be reduced as hereinafter provided. No person shall be entitled to receive the deferred pension unless he pays to the fund of the system, between the date of his retirement and the date on which payment of the deferred pension is to commence, the amount hereinafter prescribed. In order to be entitled to receive the deferred pension, the number, during the period specified in the next foregoing sentence, shall pay to the retirement fund before the last day of each calendar month the sum of the following amounts: (1) The amount which would have been deducted from his salary and paid into the fund of the system during the month if he has continued to be employed by the County at the same salary he was earning on the date of his retirement; and (2) the amount which the County would have paid to the system during the month to match his salary deduction for the month, if he had continued to be employed by the County at the same salary he was earning on the date of his retirement. In order to become entitled to the deferred pension a member so retired shall make the payments prescribed in the next foregoing sentence not later than the time prescribed in said sentence; but he may make all or any part of said payments in advance of the time prescribed in the said sentence.

Any member not entitled to voluntarily retire under the foregoing provisions who shall be involuntarily retired after having accumulated twenty (20) years of service with the County, at least ten (10) of which shall be paid membership time, shall be entitled to receive a monthly pension computed in accordance with the formula set forth in subsection (b) hereof, the payment of which shall commence upon his retirement if he is then as much as fifty-five (55) years of age, and if he is less than fifty-five (55) years of age when he retires the payment of such pension shall commence upon his attaining the age of fifty-five (55) years. In order for a member to be entitled to the deferred pension provided for in the next foregoing sentence it shall not be necessary that any payments to the retirement fund be made by him for any period following his involuntary retirement.

No person shall be entitled to receive a deferred pension if his separation from the service of the County was due to his misappropriation of funds or property of the County, or to moral delinquency on his part.

Section 4. Section 12 of Act No. 497 of the Regular Session of the Legislature of Alabama of 1965, approved August 20,

1965 (Ala. Acts 1965, p. 717, et seq.), is hereby amended so as to read as follows:

Section 12. Disability Allowances. (a) **Non-Service Connected.** Any member who, after having accumulated ten (10) years paid membership time, shall become so disabled, either mentally or physically, for any cause except as hereinafter provided, that in the opinion of the Board and the Medical Advisor he is incapacitated for further performance of his duties, shall during the continuance of such disability be entitled to receive monthly disability benefits to be determined by the formula as provided under Section 10, above, such formula to be applied as though the disabled employee were entitled to retirement for superannuation at the commencement of the disability. No disability allowance shall be made if a venereal disease or the use of intoxicating liquors or narcotics or narcotic drugs or drug or willful misconduct of the disabled person be the cause of, or substantially contribute to, the disability or if the cause of disability be voluntarily and willfully brought about by the disabled person. (b) **Service Connected.** Any member who shall become so disabled that in the opinion of the Board and the Medical Advisor he is incapacitated for further performance of his duties by reason of personal injury received as a result of an accident arising out of and in the course of his employment in the service of the County and not due to his intoxication or willful misconduct, shall be entitled to receive a monthly benefit allowance in the amount equal to sixty percent (60%) of such part of the member's monthly salary as was subject to deductions for pension purposes at the time of the commencement of the disability. (c) **Partial Disability.** In cases of partial disability arising under either (a) or (b) of this Section, the Board and the Medical Advisor shall determine the percentage of disability suffered and the member shall be entitled to that proportion of the amount which would have been payable to him if totally disabled which his percentage of disability is of total disability. (d) **Payment of the benefits provided for by this Section 12 shall commence when the member ceases to receive his salary subject to the deductions prescribed by Section 9 of this Act.**

Section 5. This Act shall become effective upon its approval by the Governor or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:44 P.M.

Act No. 805

H. 1227—Cauthen, Slate

AN ACT

Relating to Morgan County; to provide further for the type of newspaper in which certain notices required to be published in news-

papers under the provisions of Section 713, Title 7, Code of Alabama 1940, may be published in Morgan County.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to the types of newspapers designated in Section 713 of Title 7, Code of Alabama 1940, as last amended, in which publication of certain notices may be published, publication of any notice required by law or mortgage or other contract to be published in a newspaper may be published in any newspaper printed in the English language which is or may be hereafter approved by the United States Post Office Department for second class mailing privileges, which has general circulation in Morgan County, regardless of where the paper is printed, if the principal editorial office of the newspaper is located within Morgan County.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:45 P.M.

Act No. 806

H. 1228—Slate, Cauthen

AN ACT

An Act, relating to Morgan County; fixing the fee for issuance of pistol permits by the Sheriff and providing for distribution and use of such fees.

Be It Enacted by the Legislature of Alabama:

Section 1. In Morgan County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Title 14, Section 177, Code of Alabama 1940, as last amended, shall be Five Dollars (\$5.00) and shall be collected by the Sheriff prior to the issuance of said permit.

Section 2. Of each such fee so collected, \$3.00 shall be deposited in the General Fund of the county, and \$2.00 shall be deposited in the Contingent Fund of said county.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:46 P.M.

Act No. 807

H. 1230—Jackson

AN ACT

To amend Act No. 45, H.B. 29, Special Session 1967, approved April 3, 1967, creating a court in Covington County designated as the "Covington County Alabama Intermediate Court."

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 45, H.B. 29 Special Session 1967, approved April 3, 1967, an act creating the Covington County Intermediate Court, is hereby amended to read as follows:

Section 2. JURISDICTION. (a) Except as provided in Subsection (b) The Court shall have power to exercise jurisdiction in all actions, causes, matters, proceedings, and cases and all matters under Article 3 of Chapter 4, Title 34, Code of Alabama 1940 as last amended including paternity proceedings under the provisions of Title 27, Section 12 (1)-12(10) Code of Alabama, Recompiled 1958, and actions for unlawful detainer and for the recovery of possession of land without limitation as to the value of the property involved cognizable before the Circuit Court, or a County court, or the Juvenile Court or the Probate Court, or Justice of the Peace, or courts created in lieu thereof, and all courts of like jurisdictions. It shall have the authority to punish contempts by fine not exceeding Fifty Dollars (\$50.00) and imprisonment not exceeding five (5) days. It may adopt and enforce rules and regulations relative to pleadings, procedure and practice, provided such rules and regulations are not contrary to the Constitution and statutes of the State and lawmade rules governing the practice and procedure of courts of record. In exercising jurisdiction in Juvenile court cases the provisions of Chapter 7 Title 13 of the Code of Alabama 1940 and amendments, shall apply. (b) The Court shall not have power to try persons charged with felonies. It shall not have jurisdiction of actions of ejectment or any civil action when the matter of sum in controversy exceeds \$1500.00. It shall have exclusive jurisdiction of all Civil matters where the amount in controversy does not exceed \$1,500.00 and which is not herein above excluded. The Circuit Court of Covington County Alabama shall not have jurisdiction of any matter cognizable before this court, except upon appeal, as provided in Section II hereof. The Court herein created shall not take cognizance of any matter or proceeding in equity. (c) In actions for the recovery of personal property pledged, mortgaged, or otherwise aliened to secure the payment of a debt, the amount or sum in controversy shall be the amount due on the debt. (d) The Judge of the Court shall have and exercise preliminary jurisdiction in felony cases, and the Clerk and Clerk's deputy shall have power to take complaints and

issue warrants in preliminary proceedings commenced in said court.

Section 2. Section 8 of said Act No. 45 of the Special Session of 1967 is hereby amended so as to read as follows:

Section 8. COSTS. (a) For attendance upon the Court witnesses shall be entitled to the fees and allowances prescribed by law for witnesses in the Circuit Court, which fees and allowances shall be taxed, collected, and paid in the same manner and according to the same regulations as apply in the Circuit Court.

(b) In addition to the fees for witnesses the Court shall have authority to tax costs and fees for the use of the officers of the county as follows: (1) In each civil action at law the same as in Circuit Court. (2) In each criminal case as provided in Code of Alabama Title II Section 89 (2), as amended. (3) In every criminal case a solicitor's fee of \$5.00 shall be charged; except violation of any provisions of statutes contained in Title 8 or 36 Code of Alabama 1940 as recompiled 1958; except herein otherwise provided.

(c) The trial tax of \$3.00 shall be collected for the use of the county in each civil action and criminal case. (d) No costs shall be taxed in juvenile cases. (e) The fees of the Clerk and of the Sheriff in criminal cases, if the State fails to convict or if the State fails to pay or where a nolle prosequi is ordered, or where the case is abated by the death of the defendant, or where an execution is returned "no property found" shall be paid out of the fine and forfeiture fund of the county. (f) All fines and forfeitures, except those required by law to be paid or remitted to the State Treasurer, or other state officer of Department, shall be deposited by the Clerk in the fine and forfeiture fund of the county. The Clerk shall be entitled to commissions of five percent on all money remitted to the State or to the County. The Clerk shall retain his own fees and the fees of the Sheriff and witnesses and shall pay them to the parties entitled thereto. All other items of costs shall be deposited in the general fund of the county, unless otherwise provided by State Law.

Section 3. Section II of said Act No. 45 of the special Session of 1967 is hereby amended so as to read as follows:

Section II. Appeals. Any party aggrieved by a judgment rendered against him may appeal to the Circuit Court as herein provided. (1) If the case is a civil case the appeal is taken by giving written notice within fifteen days after rendition of the judgment and execution of a bond, with sufficient securities, for payment of costs in the case, in both the Intermediate Court and the Circuit Court. Upon giving such notice and bond for costs execution on the judgment is thereby stayed pending

the appeal to the Circuit Court. Such appeals shall be governed, by Articles 6 of Chapter 8, Title 13, Code of Alabama, 1940, except as herein otherwise provided. (2) If the case arises under the jurisdiction of the Court with respect to juveniles, the appeal shall be governed by Chapter 7 of Title 13 of the Code of Alabama of 1940. (3) In every criminal case the appeal shall be governed by Section 349 Title 13 of the Code of Alabama of 1940.

Section 4. Section 12 of said Act No. 45 of the Special Session of 1967 is hereby amended so as to read as follows:

Section 12. CLERKS. (a) The Clerk of the Circuit Court of Covington County, Alabama shall be ex-officio clerk of the Court herein established. He shall have power to appoint not more than three deputy clerks and delegate to them such authority as may be necessary to carry out the provisions of this Act. The Clerk shall have authority to purchase at county expense such records, stationery, office supplies, and equipment as may be necessary to conduct the Court's business. He shall keep a seal which shall be the official seal adopted by the Court.

(b) It shall be the duty of the Clerk to keep all the records, files, and dockets of the Court in an orderly manner and to perform all other duties required by the Judge.

(c) The Clerk shall have power and authority: (1) to administer oaths and take acknowledgments and affidavits; (2) to sign and issue all processes issuing out of the Court, including warrants, affidavits, summonses, subpoenas, writs, executions, commitments, and releases and for taking affidavits and issuing warrants of arrest and signing commitments in criminal cases he shall be entitled to a fee of \$1.00; (3) to approve bonds in civil cases; (4) to enter all judgments, orders, and decrees of the Court; (5) to certify all appeals and transcripts; (6) to execute all powers and authority which are now or may hereafter be conferred on clerks in circuit courts.

(d) The Clerk shall attend the sessions of the Court in person or by Deputy.

Section 5. Section 13 of said Act No. 45 of the Special Session of 1967 is hereby amended so as to read as follows:

Section 13. The Sheriff shall attend the sessions of the Court in person or by Deputy, except in juvenile court proceedings where attendance shall be within the discretion of the judge. He shall execute all writs and processes of the Court, and perform such other duties as he may be required to perform in the Circuit Court.

Section 6. Section 15 of the said Act No. 45 of the Special Session of 1967 is hereby amended so as to read as follows:

Section 15. TRANSFER OF CASES. (a) The presiding Judge of the Circuit Court of Covington County shall, on the effective date of this Act or as soon thereafter as is practicable transfer to the Court created herein (1) all civil cases pending in the Circuit Court in which the amount in controversy is less than \$1500.00 and such cases shall proceed as though begun therein (2) and all cases thereafter filed in the Circuit Court of Covington County in which the amount in controversy is less than \$1500.00, all cases pending in the Circuit Court against persons charged with a misdemeanor, and such cases shall proceed as though begun therein. After the effective date of this Act, every indictment returned by a grand jury of Covington County which charges a person with a misdemeanor shall be transferred immediately to the Court herein and all subsequent proceedings on the indictment shall be had therein. (b) The Probate Judge of Covington County shall, on the effective date of this Act or as soon thereafter as is practicable, transfer to the Court herein created all juvenile, criminal and quasi-criminal cases pending in the Probate Court of Covington County and such cases shall proceed as though begun therein.

Section 7. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 8. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:47 P.M.

Act No. 808

H. 1277—Grey (D)

AN ACT

To alter, rearrange and extend the corporate limits of the Town of Sulligent, Lamar County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. That the corporate limits of the Town of Sulligent, Lamar County, Alabama, be altered, rearranged and extended to include the following territory:

S $\frac{1}{2}$ of SE $\frac{1}{4}$, Section 21; SW $\frac{1}{4}$ of NE $\frac{1}{4}$, S $\frac{1}{2}$ of NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ of SE $\frac{1}{4}$, Section 22; N $\frac{1}{2}$ of NE $\frac{1}{4}$, W $\frac{1}{2}$ and NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 28; NE $\frac{1}{4}$, S $\frac{1}{2}$ of NE $\frac{1}{4}$, SE $\frac{1}{4}$ of NW $\frac{1}{4}$, and S $\frac{1}{2}$ of Section 29; SE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30; all of Section 31; all of Section 32; and W $\frac{1}{2}$ of Section 33. All in

Township 13 South, Range 15 West; N $\frac{1}{2}$ of NW $\frac{1}{4}$, Section 4; N $\frac{1}{2}$ of N $\frac{1}{2}$, Section 5; and NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 6, in Township 14 South, Range 15 West, all in Huntsville Meridian, Lamar County, Alabama.

Section 2. That all laws and parts of laws, general, special and local, in conflict with this Act, be and the same are hereby repealed.

Section 3. This Act shall go into effect immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 1:48 P.M.

Act No. 809

H. 1324—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 73, H. 65, Special Session 1966 (Acts 1966, p. 102), which regulates further the county court of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 73, H. 65, Special Session 1966 (Acts 1966, p. 102), is amended to read as follows:

“An Act To regulate further the County Court of all counties having a population of not less than 90,000 nor more than 100,000, according to the last or any subsequent Federal Decennial Census.”

Section 2. Section 1 of said Act No. 73, H. 65, is amended to read as follows:

“Section 1. This act shall apply in all counties having a population of not less than 90,000 nor more than 100,000, according to the last or any subsequent Federal Decennial Census.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 11:49 P.M.

Act No. 810

H. 1325—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 39, S. 23, Special Session 1966 (Acts 1966, p. 62), which authorizes the Clerk of the County Court

to appoint two of his assistants to be assistant Chief Clerks of the Criminal and Civil Divisions, respectively, of said court, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 39, S. 23, Special Session 1966 (Acts 1966, p. 62), is amended to read as follows:

"An Act To authorize and provide that Clerks of County Courts in all counties having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census, may select, designate and appoint one of his assistants to be and serve as assistant Chief Clerk of the Criminal Division and another assistant to be and serve as assistant Chief Clerk of the Civil Division, of said Court."

Section 2. Section 1 of said Act No. 39, S. 23, is amended to read as follows:

"Section 1. The Clerk of the County Court of any County having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census is hereby given the right and authority to select, designate and appoint one of his assistants to be and serve as Assistant Chief Deputy Clerk of the Criminal Division of said Court and select, designate and appoint one of his assistants to be and serve as Assistant Chief Deputy Clerk of the Civil Division of said Court. Said persons so selected and appointed by said Clerk shall hold such offices and have such titles at the pleasure of said Clerk."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:50 P.M.

Act No. 811

H. 1326—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 464, H. 528, Regular Session 1967 (Acts 1967, p. 1155), which provides for the fixing, disposition, and use of fees collected for the issuance of pistol permits in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 464, H. 528, Regular Session 1967 (Acts 1967, p. 1155), is amended to read as follows:

"An Act Relating to law enforcement in all counties having populations of not less than 90,000 nor more than 100,000,

according to the most recent federal decennial census; fixing the fee for the issuance of pistol permits; providing for the deposit of such fees in a fund to be designated the sheriff's fund and providing for the use of such fund."

Section 2. Section 1 of said Act No. 464, H. 528, is amended to read as follows:

"Section 1. In all counties having populations of not less than 90,000 nor more than 100,000, according to the most recent federal decennial census, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama 1940, Title 14, Section 177 shall be five dollars, which shall be collected by the sheriff and deposited in the county treasury and credited to a special fund to be known and designated as the sheriff's fund. Such fund shall be drawn upon by the sheriff and used exclusively for purposes of law enforcement."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:51 P.M.

Act No. 812

H. 1327—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 1184, H. 1357, Regular Session 1969 (Acts 1969, p. 2213), which provides an additional supplementary salary for the circuit court reporters of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1184, H. 1357, Regular Session 1969 (Acts 1969, p. 2213), is amended to read as follows:

"An Act Relating to counties having populations of not less than 90,000 nor more than 100,000, according to the most recent federal decennial census; providing for the payment from the county treasury of an additional supplementary salary to each of the court reporters for the circuit courts of such counties."

Section 2. Section 1 of said Act No. 1184, H. 1357, is amended to read as follows:

"Section 1. This Act shall apply in but only in all counties having populations of not less than 90,000 nor more than 100,000, according to the most recent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:52 P.M.

Act No. 813

H. 1328—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 619, H. 782, Regular Session 1967 (Acts 1967, p. 1423), as last amended, which provides for the distribution of a portion of the State Gasoline Excise Tax among municipalities in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 619, H. 782, Regular Session 1967 (Acts 1967, p. 1423), is amended to read as follows:

“An Act To provide for the distribution among the municipalities in any county having a population as great as 90,000 and not exceeding 100,000, according to the last or any succeeding federal decennial census, of a portion of the State Gasoline Excise Tax paid to such county pursuant to the provisions of Section 5 (b) of Act No. 224 adopted at the special session of the Legislature of Alabama that convened on March 2, 1967.”

Section 2. Section 1 of said Act No. 619, H. 782, is amended to read as follows:

“Section 1. Application of Act. This act shall apply to each county in the state that has a population as great as 90,000 and not exceeding 100,000, according to the then next preceding federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:53 P.M.

Act No. 814

H. 1329—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Sections 1, 2, and 3 of Act No. 538, S. 589, Regular Session 1967 (Acts 1967, p. 1287), which provides additional and alternate methods of annexation of certain municipalities in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 538, S. 589, Regular Session 1967 (Acts 1967, p. 1287), is amended to read as follows:

"An Act To provide additional and alternate methods of annexation of certain territory to municipalities in counties in the State of Alabama having a population of not less than 90,000 nor more than 100,000 inhabitants according to the last or any subsequent federal census."

Section 2. Section 1 of said Act No. 538, S. 589, is amended to read as follows:

"Section 1. This Act shall apply only to municipalities in counties of the State having a population of not less than 90,000 nor more than 100,000 inhabitants according to the last or any subsequent federal census."

Section 3. Section 2 of said Act No. 538, S. 589, is amended to read as follows:

"Section 2. Whenever all of the owners of property contained within an area contiguous to the city limits of any municipality located in any county of the State of Alabama having a population of not less than 90,000 nor more than 100,000 inhabitants according to the last or any subsequent federal census, shall sign and file a written petition with the City Clerk or such municipality asking that such property or territory be annexed to said municipality and the governing body of such municipality adopts an ordinance assenting to the annexation of said property to such municipality, the corporate limits of such municipality shall be rearranged to include such property and such property or territory shall become a part of the corporate area of such municipality upon the date of publication of said ordinance. The petition required by this Section shall contain a description of the property or territory proposed to be annexed and the signatures of all the owners of the property or territory described."

Section 4. Section 3 of said Act No. 538, S. 589, is amended to read as follows:

"Section 3. Whenever a majority of the owners of property contained within any territory contiguous to the city limits of any municipality located in any county of the State of Alabama having a population of not less than 90,000 nor more than 100,000 inhabitants according to the last or any subsequent federal census shall sign and file a written petition with the City Clerk of such municipality requesting that such property or territory be annexed to such municipality, with such property or territory proposed to be annexed being described in said peti-

tion, the governing body of such municipality may provide by ordinance for the annexation of such property or territory to such municipality in the following manner. Upon the filing of said petition, the governing body of the municipality shall cause said petition to be published one time in a newspaper of general circulation in the county in which said municipality is located, together with a notice, specifying the date, hour and place of the meeting, that the governing body of such municipality will meet on a day certain, but not less than ten (10) days after such notice is published, to consider the adoption of an ordinance annexing such property or territory described in such petition to the municipality. On the date set in such public notice the governing body of the municipality shall hold a public hearing to determine the truth of the matters set forth in the petition and to hear any person who desires to be heard either in favor of or in opposition to the annexation of such property or territory to the municipality, and, at said hearing, any landowner who has signed the petition for annexation may have his name removed from the petition upon his request for such removal made to the governing body of the municipality. If, at the conclusion of said hearing, the names of a majority of the total number of owners of property contained within the territory considered for annexation shall remain on the petition, the governing body of the municipality may proceed to adopt an ordinance assenting to the annexation of said property or territory to the municipality, and the corporate limits of such municipality shall be rearranged to include such territory, and such property or territory shall become a part of the corporate area of such municipality upon the date of publication of said ordinance. If the names of a majority of the total number of landowners of the property or territory considered for annexation do not remain on the petition at the conclusion of said hearing, said property or territory shall not be annexed by ordinance under the provisions of this Section.

Section 5. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:54 P.M.

Act No. 815

H. 1330—Carnes, Waldrop, Wynot
AN ACT

Relating to counties having a population of not less than 90,000 nor more than 100,000; fixing the compensation of certain officers in such counties.

Be It Enacted by the Legislature of Alabama:

Section 1. In all the counties having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census, the following officers shall receive compensation as follows:

- (a) for the sheriff, a salary of \$16,500 per annum.
- (b) for the president of the board of revenue, county commission, or like governing body, a salary of \$15,000 per annum.
- (c) for each associate member of the board of revenue, county commission, or like governing body, a salary of \$12,000 per annum.
- (d) for the probate judge, a salary equal to \$1,000 per annum less than the total annual compensation of the circuit judges in such counties, which compensation includes state salary, local supplement, and expense allowances.
- (e) for the circuit clerk, a salary of \$12,000 per annum.
- (f) for the tax assessor, a salary of \$12,000 per annum.
- (g) for the tax collector, a salary of \$12,000 per annum.
- (h) for the judge of the county court a salary equal to \$1,000 per annum less than the total annual compensation of the circuit judges in such counties, which compensation includes state salary, local supplement, and expense allowances.
- (i) for the coroner, a salary of \$4,800 per annum.
- (j) for the register in chancery a salary of \$8,500 per annum.
- (k) for the members of the jury commission, a salary of \$1,500 per annum.
- (l) for each deputy district attorney, a salary of \$7,500 per annum.
- (m) for the clerk of the jury commission, a salary of \$3,000 per annum.
- (n) for assistant or part-time bailiffs, a salary of \$15 per day.
- (o) for the chief deputy, a salary of \$7,800 per annum.
- (p) for the assistant chief deputy, a salary of \$7,200 per annum.
- (q) for all other deputies, a salary of \$6,600 per annum.

(r) for the county investigator, a salary of \$7,200 per annum.

(s) for the jailors or matrons, a salary of \$4,800 per annum.

The salaries hereinabove provided shall be the entire compensation each officer shall receive for the performance of his official duties, except for actual travel expenses incurred in such performance, and allowance to the sheriff for feeding prisoners or providing for the payment to him of mileage and expense allowances for returning or transferring prisoners and insane persons to points outside the county.

Section 2. The members of the board of registrars shall receive in addition to the salary paid by the state a per diem supplement in the amount of five dollars (\$5.00) for each day such member is engaged in the discharge of his duties, which supplement shall be payable from the general funds of the county.

Section 3. The salaries hereinabove provided for in Section 1 for the chief deputy, assistant chief deputy, all other deputys, the county investigator, and the jailors or matrons are minimum salaries which shall be paid to such persons. It is specifically provided, however, that the Board of Revenue, County Commission, or like governing body of the county shall have the power to increase the salaries of such persons upon the recommendation of the sheriff.

Section 4.

(a) In addition to the compensation paid by the state, each member of the board of equalization shall receive five dollars (\$5.00) per day expense allowance for each day such member is engaged in the discharge of his duties.

(b) In addition to the compensation paid by the state, and in addition to the expense allowance hereinabove provided for, each member of the board of equalization shall receive out of the general fund of the county a per diem supplement of five dollars (\$5.00) for each day such member is engaged in the discharge of his duties; provided, however, that if there is a municipality in the county in which the total assessed value of all taxable property is equal to or greater than 50% of the total assessed value of all taxable property located in the county, then one-half of such supplement shall be paid by the county and the other one-half shall be paid by such municipality.

Section 5. The constable of the county court shall receive an annual salary of \$10,000 and an annual expense allowance of \$1,500.

Section 6. The provisions of this act are severable. If any part of this act is declared unconstitutional, the parts which remain shall not be affected.

Section 7. This act shall take effect immediately upon its passage and approval by the governor or upon its otherwise becoming a law, provided that should there be constitutional or statutory prohibitions preventing any of the public officers named hereinabove from receiving such prescribed compensation as of such date, the provisions of this Act shall become effective as to them immediately following the date upon which such prohibition expires.

Approved September 7, 1971.

Time: 1:55 P.M.

Act No. 816

H. 1331—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 206, H. 401, Regular Session 1961 (Acts 1961, p. 238), which prohibits probate judges from charging any fee for administering an oath or taking or acknowledging an affidavit, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 206, H. 401, Regular Session 1961 (Acts 1961, p. 238), is amended to read as follows:

“An Act To prohibit the probate judge in all counties having a population of not less than 90,000 and not more than 100,000 from charging or collecting any fee or compensation for administering an oath or taking or acknowledging an affidavit; and repealing conflicting laws.”

Section 2. Section 1 of said Act No. 206, H. 401, is amended to read as follows:

“Section 1. In all counties having a population of not less than 90,000 and not more than 100,000 according to the last or any subsequent federal census, the probate judge shall not charge or collect any fee or compensation for administering an oath or taking or acknowledging an affidavit, or for taking an acknowledgment. The probate judge shall not be held liable for failing to charge or collect any such fee or compensation.”

Section 3. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 1:56 P.M.

Act No. 817

H. 1332—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 200, H. 417, Regular Session 1961 (Acts 1961, p. 235), which regulates further the purchasing practices of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 200, H. 417, Regular Session 1961 (Acts 1961, p. 235), is amended to read as follows:

“An Act To regulate further the purchasing practices of counties having a population of not less than 90,000 nor more than 100,000, according to the last or any subsequent federal decennial census.”

Section 2. Section 1 of said Act No. 200, H. 417, is amended to read as follows:

“Section 1. Notwithstanding any competitive bidding requirements imposed by law upon the court of county commissioners, boards of revenue or like governing body of any county having a population of not less than 90,000 nor more than 100,000, according to the last or any subsequent federal decennial census, in regard to the making of purchases for the county, the court of county commissioners, board of revenue or like governing body of the county shall not be required to post any notice or publish any advertisement in connection with any proposed purchase of repair parts and equipment for rolling stock where there is only one supplier of the commodity to be purchased, and where such purchase is made in an emergency situation, as determined by a majority of the members of the county governing body.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:59 P.M.

Act No. 818

H. 1333—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 208, H. 403, Regular Session 1961 (Acts 1961, p. 239), which provides for appointment, compensation, duties, and authority of deputy circuit solicitors in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 208, H. 403, Regular Session 1961 (Acts 1961, p. 239), is amended to read as follows:

"An Act To provide for the appointment of deputy circuit solicitors for all counties having populations of not less than 90,000 nor more than 100,000, according to the last or any subsequent federal decennial census, regulating their compensation and prescribing their duties and authority."

Section 2. Section 1 of said Act No. 208, H. 403, is amended to read as follows:

"Section 1. With the approval of the court of county commissioners, board of revenue, or like county governing body, the solicitor of the circuit court for any county having a population of not less than 90,000 nor more than 100,000, according to the last or any subsequent federal decennial census, is authorized and empowered to appoint one deputy in addition to the deputy heretofore provided for by law, whose compensation shall be fixed by the court of county commissioners, board of revenue, or like county governing body, and shall be paid out of the county treasury. Such deputy shall serve at the pleasure of the solicitor."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:58 P.M .

Act No. 819

H. 1334—Carnes, Waldrop, Wynot
AN ACT

To amend the title and Section 1 of Act No. 589, H. 1039, Regular Session 1961 (Acts 1961, p. 697), which provides that witness certificates obtained as a state's witness before certain judicial bodies and proceedings shall be paid immediately upon presentation for payment, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 589, H. 1039, Regular Session 1961 (Acts 1961, p. 697), is amended to read as follows:

"An Act Relating to counties having a population of not less than 90,000 nor more than 100,000 inhabitants; providing that witness certificates obtained as a state's witness before the Grand Jury or before the Circuit or County Court in which a criminal prosecution is pending shall be paid immediately upon presentation for payment."

Section 2. Section 1 of said Act No. 589, H. 1039, is amended to read as follows:

“Section 1. The provisions of this Act shall apply only to counties having a population of not less than 90,000 nor more than 100,000 inhabitants, according to the last or any subsequent federal census.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 1:59 P.M.

Act No. 820

H. 1335—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 379, H. 793, Regular Session 1961 (Acts 1961, p. 393), which provides for, authorizes, and describes the type of hospital records which may be introduced as evidence in the court of certain counties classified on a population basis; further provides procedures for proper introduction thereof and provides for the taxing of costs in connection therewith.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 379, H. 793, Regular Session 1961 (Acts 1961, p. 393), is amended to read as follows:

“An Act To apply in all counties in this state having populations of not less than 90,000 and not more than 100,000, according to the latest or any subsequent federal decennial census, and to provide for and authorize the introduction in evidence in any court in Alabama in such counties, when relevant and material, certified copies of hospital records or any hospital organized or operated under or pursuant to the laws of Alabama, including records of admission, medical, clinical, hospital, occupational, disease, injury and disability histories, X-rays and written interpretations thereof, pictures, photographs, files, written orders, directions, findings and reports of physicians, doctors, surgeons, pathologists, radiologists, specialists, dentists, technicians and nurses, as well as employees of such hospitals, forming a part of such hospital records, as to the health, physical and mental condition, state, sickness, disease, mental and physical disorders, damages, duration and character of disabilities, diagnosis, prognosis, progress, operations, incisions, injuries, wounds, cuts, lacerations, bruises, breaks, examinations, tests, transfusions, hospitalization and duration thereof, medication,

medicines, treatment and care and charge sheets and the costs, expenses, fees and charges therefor and thereof, as to and of a patient in said hospital, when the custodian of such hospital records certifies and affirms in writing that the same are an exact, full, true and correct copy of such hospital records; with the proviso that all circumstances of the making of such hospital records, including lack of personal knowledge by the entrant or maker, may be otherwise shown to affect the weight of such hospital records but they shall not affect their admissibility; and to provide for the cost and the taxing thereof for said copy and certificate and affirmation in writing thereto and the filing of said copy with the clerk or register of the court having jurisdiction of the suit or proceeding, and to provide for subpoena duces tecum therefor."

Section 2. Section 1 of said Act No. 379, H. 793, is amended to read as follows:

"Section 1. This act shall apply only in all those counties in Alabama now having populations of not less than 90,000, and not more than 100,000, according to the latest or any subsequent federal decennial census, and that when the original would be relevant and material in any suit or proceeding in a court of Alabama in any such county, a certified copy of the hospital records of any hospital organized or operated under or pursuant to the laws of Alabama, including records of admission, medical, hospital, occupational, disease, injury and disability histories, temperature and other charts, X-Rays and written interpretations thereof, pictures, photographs, files, written orders, directions, findings and reports and interpretations of physicians, doctors, surgeons, pathologists, radiologists, specialists, dentists, technicians and nurses as well as of all employees of such hospital, forming a part of such hospital records as to the health, condition, state, injuries, sickness, disease, mental, physical and nervous disorders, duration and character of disabilities, diagnosis, prognosis, progress, wounds, cuts, contusions, lacerations, breaks, loss of blood, incisions, operations, injuries, examinations, tests, transfusions, hospitalization and duration thereof, medication, medicines, supplies, treatment and care and the cost, expenses, fees and charges therefor and thereof, a part of or shown on or in said hospital records of any patient in said hospital when certified and affirmed by the custodian of said hospital records as herein provided, shall be admissible in evidence without further proof in any court in Alabama in any such county where material and relevant, if and when said hospital records were made and kept in the usual and regular course of business of said hospital and it was in the regular course of business of said hospital to make and keep said records and that said records were made at the time of such acts, trans-

actions, occurrences or events therein referred to occurred or arose or were made, or within a reasonable time thereafter."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:00 P.M.

Act No. 821

H. 1336—Carnes, Waldrop, Wynot

AN ACT

Relating to meetings and compensation of members of boards of education in counties having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. The county boards of education in all counties having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census, shall meet and conduct the business of the board at such times and on such occasions as the best interest of public education shall require, without any limitation upon the number of such board meetings per year.

Section 2. The members of county boards of education in all counties having a population of not less than 90,000 nor more than 100,000, according to the most recent federal decennial census, shall receive, as compensation for their services, a salary of Seventy-five Dollars (\$75.00) per month, which compensation shall be in lieu of any compensation heretofore required by law to be paid to such members on a per meeting basis; board members shall also receive actual expenses for travel to and from board meetings.

Section 3. All laws or parts of laws which conflict with any provisions hereof are repealed.

Section 4. This act shall become effective upon the first day of the first month following its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:01 P.M.

Act No. 822

H. 1337—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 138, H. 139, Special Session 1969 (Acts 1969, p. 204), which provides for the Constable of

the County Courts to serve as bailiff and provides compensation therefor, certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 138, H. 139, Special Session 1969 (Acts 1969, p. 204), is amended to read as follows:

“An Act To apply in all Counties of this State having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census; providing for the Constable of the County Courts of such counties to serve as Bailiff and for the compensation of such Bailiffs.”

Section 2. Section 1 of said Act No. 138, H. 139, is amended to read as follows:

“Section 1. This Act shall apply to all counties of this State having a population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time 2:02 P.M.

Act No. 823

H. 1338—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Sections 1 and 2 of Act No. 377, H. 791, Regular Session 1961 (Acts 1961, p. 392), which allows the county commission of certain counties classified on a population basis to fix and set aside by resolution certain days of the week for the closing of offices in said county court house.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 377, H. 791, Regular Session 1961 (Acts 1961, p. 392), is amended to read as follows:

“An Act To apply in all counties of this state having populations of not less than 90,000 and not more than 100,000 according to the latest or any subsequent federal decennial census; to allow the county commissions of such counties to fix and set aside, by resolution certain days of the week for the closing of the offices in the court house of such county.”

Section 2. Section 1 of said Act No. 377, H. 791, is amended to read as follows:

“Section 1. This act shall apply in all counties of Alabama having populations of not less than 90,000 nor more than 100,000 according to the latest or any subsequent decennial census.”

Section 3. Section 2 of said Act No. 377, H. 791, is amended to read as follows:

"Section 2. In all counties of this state coming within the purview of this act, the county commission of such county is hereby authorized to fix and set aside and designate by resolutions from time to time, one day out of each week other than Sundays for all court house offices and other county offices to be closed."

Section 4. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:03 P.M.

Act No. 824

H. 1339—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 70, H. 103, Special Session 1962 (Acts 1962, p. 94), which provides for the distribution and use of revenue received from the property tax levied pursuant to Amendment CCII of the Alabama Constitution of 1901, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 70, H. 103, Special Session 1962 (Acts 1962, p. 94), is amended to read as follows:

"An Act To provide for the distribution and use of revenue received from the property tax levied as authorized by Amendment CCII of the Constitution of Alabama 1901 in any county having a population of not less than 90,000 nor more than 100,000."

Section 2. Section 1 of said Act No. 70, H. 103, is amended to read as follows:

"Section 1. This Act shall apply to any county having a population of not less than 90,000 nor more than 100,000 inhabitants, according to the 1970 or any subsequent federal decennial census."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:04 P.M.

Act No. 825

H. 1340—Carnes, Wynot, Waldrop

AN ACT

To amend the title and Section 1 of Act No. 24, H. 18, Special Session 1962 (Acts 1962, p. 34), which provides for feeding of prisoners in jail, retroactively of this Act, and validates certain allowances which may have heretofore been made for the feeding of such prisoners, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 24, H. 18, Special Session 1962 (Acts 1962, p. 34), is amended to read as follows:

“An Act To regulate further the feeding of prisoners in jail in all counties having populations of not less than 90,000 nor more than 100,000, according to the last or any subsequent federal decennial census; to provide for retroactive effect of the provisions of this Act, and to validate the payment to the sheriffs of such counties certain allowances which may have heretofore been made to them for the feeding of prisoners in county jails, and for preparing and serving such food.”

Section 2. Section 1 of said Act No. 24, H. 18, is amended to read as follows:

“Section 1. The sheriff of any county having a population of not less than 90,000 nor more than 100,000 inhabitants, according to the last or any subsequent federal decennial census, shall be entitled to receive the allowances provided for by Sections 144 and 145 of Title 45, Code of Alabama 1940, as amended, for the feeding of prisoners in the county jail, and for preparing and serving such food. On or before the tenth day of each and every month the sheriff shall furnish to the board of revenue, court of county commissioners, or like governing body of the county, and to the department of finance and to the department of corrections, an itemized statement, verified by affidavit, giving a list of all state and county prisoners by name, race and sex, the offense charged, authority for committing, disposition of prisoner, if sentenced, date committed, date sentenced, date discharged, the number of days in jail. The sheriff shall also set out the amount of money actually expended for purchasing and supplying all foodstuffs for feeding prisoners during the month immediately preceding.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:05 P.M.

Act No. 826

H. 1402—Stokes, Roberts, Therrell, Collins,
Lyons, Downing, Wood, Nettles,
Perloff, Callahan

AN ACT

To alter, rearrange and add to the limits of the City of Prichard in Mobile County, Alabama, and to alter and rearrange the limits of the City of Chickasaw in Mobile County, Alabama, by removing certain area from the limits of the City of Chickasaw and adding same to the limits of the City of Prichard, and to describe the area so removed from the City of Chickasaw and so added to the City of Prichard.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundaries of the City of Prichard in Mobile County, Alabama are altered, rearranged and extended to include within the corporate limits of said city the parcel of land hereinafter described, and the boundaries of the City of Chickasaw in Mobile County, Alabama are altered and rearranged to exclude from the corporate limits of said city the said land described as follows:

Beginning at the Northeast corner of Section 20, Township 3 South, Range 1 West, Mobile County, Alabama, run westwardly along the north line of said Section 20 a distance of 2490 feet, more or less, to a point on the western right-of-way line of U. S. Interstate Highway 65, which point is on the existing western boundary line of the City of Chickasaw; thence run Southeastwardly along the said western right-of-way line of U. S. Interstate Highway 65, which is along the western boundary line of the City of Chickasaw, a distance of 1775 feet, more or less, to a point, said point being 5200 feet, more or less, southeast of the Northwest corner of the existing Chickasaw city limits measured along the western right-of-way line of U. S. Interstate Highway 65, and which point being the point of beginning of the parcel herein described; thence run Southwestwardly along the existing boundary line of the City of Chickasaw a distance of 960 feet, more or less, to a point; thence run Eastwardly along the existing boundary line of the City of Chickasaw a distance of 945 feet, more or less, to a point on the western right-of-way line of said U. S. Interstate Highway 65; thence run Northwestwardly along the said western right-of-way line of U. S. Interstate Highway 65 a distance of 580 feet, more or less, to the point of beginning.

Section 2. This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:06 P.M.

Act No. 827

H. 1341—Carnes, Wynot, Waldrop

AN ACT

To amend the title and Section 1 of Act No. 286, S. 286, Regular Session 1963 (Acts 1963, p. 731), which provides for certain teachers in the public schools who are over age seventy to be continued in service, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 286, S. 286, Regular Session 1963 (Acts 1963, p. 731), is amended to read as follows:

“An Act Relating to counties having populations of not less than 90,000 nor more than 100,000; authorizing certain teachers in the public schools who are over age seventy to be continued in service; and prescribing conditions for their continued employment.”

Section 2. Section 1 of said Act No. 286, S. 286, is amended to read as follows:

“Section 1. In counties having populations of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census, a teacher employed in the public schools who is over the age of seventy may be retained in service whenever in the opinion of the employing board of education his retention in service will be for the best interest of the school system. However, any teacher continued in service after having attained age seventy shall be retired forthwith upon attaining age seventy-three, or prior thereto if the employing board of education requests it.”

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:07 P.M.

Act No. 828

H. 1342—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 178, H. 205, Special Session 1964 (Acts 1964, p. 245), which regulates further the compensation and allowance of the sheriff in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 178, H. 205, Special Session 1964 (Acts 1964, p. 245), is amended to read as follows:

"An Act To regulate further the compensation and allowance of the sheriff of counties having a population of not less than 90,000 nor more than 100,000."

Section 2. Section 1 of said Act No. 178, H. 205, is amended to read as follows:

"Section 1. In addition to all other compensation and allowances provided by law, the sheriff of any county having a population of not less than 90,000 nor more than 100,000, according to the last or any succeeding federal decennial census, shall be entitled to such mileage and expense allowances as may be payable by law to other sheriffs for returning or transferring prisoners to or from points outside the county."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:08 P.M.

Act No. 829

H. 1343—Carnes, Waldrop, Wynot

AN ACT

To amend the title and Section 1 of Act No. 213, H. 31, Special Session 1964 (Acts 1964, p. 287), which restores or reconfers on certain justices of the peace and notaries public ex officio justices of the peace, certain jurisdiction withdrawn from them by local acts, in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 213, H. 31, Special Session 1964 (Acts 1964, p. 287), is amended to read as follows:

"An Act Relating to justice of the peace courts in counties having populations of not less than 90,000 nor more than 100,000; to restore to or reconfer on certain justices of the peace and notaries public ex officio justices of the peace within such counties certain jurisdiction withdrawn and taken away from them by local acts."

Section 2. Section 1 of said Act No. 213, H. 31, is amended to read as follows:

"Section 1. Every justice of the peace and notary public ex officio justice of the peace elected or appointed for any precinct in any county having a population of not less than 90,000 nor more than 100,000, according to the last or any subsequent federal decennial census, shall have and may exercise the same jurisdiction in civil cases involving garnishment and attachment

proceedings, as other justices of the peace and notaries with powers of justices of the peace under the general laws of the State, provided, however, that in no event shall any such justice of the peace or notary public ex officio justice of the peace have authority to issue any garnishment or attachment in any case until there has been a final judgment in such cases."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:09 P.M.

Act No. 830

H. 1349—Casey

AN ACT

To repeal Act No. 406, H. 987, approved August 30, 1963, Regular Session 1963 (Acts 1963, p. 906), entitled, "An Act prescribing sheriffs' allowances for transporting juvenile delinquents to places of confinement."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 406, H. 987, approved August 30, 1963, Regular Session 1963 (Acts 1963, p. 906), entitled, "An Act prescribing sheriffs' allowances for transporting juvenile delinquents to places of confinement," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 2:10 P.M.

Act No. 831

H. 1350—Casey

AN ACT

To amend the title and Section 1 of Act No. 485, H. 946, Regular Session 1965 (Acts 1965, p. 698), which regulates further the compensation of clerical assistants of certain officers of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 485, H. 946, Regular Session 1965 (Acts 1965, p. 698), is amended to read as follows:

"To regulate further the compensation of clerical assistants of certain officers of counties having populations of not less than 17,000 nor more than 20,000."

Section 2. Section 1 of said Act No. 485, H. 946, is amended to read as follows:

"In all counties having populations of not less than 17,000 nor more than 20,000, according to the most recent federal decennial census, the clerical assistants authorized for the office of the clerk of the circuit court and for the office of the judge of probate of any such county shall each receive a salary of not less than \$250 per month, to be fixed and paid as prescribed by law."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:11 P.M.

Act No. 832

H. 1351—Casey

AN ACT

To amend the title and Sections 1 and 2 of Act No. 964, S. 322, Regular Session 1961 (Acts 1961, p. 1571), which regulates the compensation of members of the county board of education of certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 964, S. 322, Regular Session 1961 (Acts 1961, p. 1571), is amended to read as follows:

"To regulate the compensation of members of the county board of education in counties having a population of not less than 17,000 nor more than 20,000 inhabitants according to the last or any subsequent federal decennial census."

Section 2. Section 1 of said Act No. 964, S. 322, is amended to read as follows:

"This act shall apply only in counties having populations of not less than 17,000 nor more than 20,000 inhabitants according to the last or any subsequent federal decennial census."

Section 3. Section 2 of said Act No. 964, S. 322, is amended to read as follows:

"The members of the county board of education of any county having a population of not less than 17,000 nor more than 20,000 inhabitants, according to the last or any subsequent federal decennial census, shall each receive, as compensation for their services, from the public school funds of the county, twenty (\$20.00) dollars a day and their actual traveling and hotel

expenses incurred in attending meetings and transacting the business of the board. Their pay and expenses shall be paid in like manner as provided for the payment of the compensation of teachers."

Section 4. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:12 P.M.

Act No. 833

H. 1353—Casey

AN ACT

To amend the title and Section 1 of Act No. 365, S. 372, Regular Session 1965 (Acts 1965, p. 500), which allows the governing body of certain counties classified on a population basis to authorize the tax collector to send notices and receipts of taxes due and paid to tax payers and provide that expenses therefor shall be paid from the county general fund.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 365, S. 372, Regular Session 1965 (Acts 1965, P. 500), is amended to read as follows:

"To apply only in counties having populations of not less than 17,000 nor more than 20,000; to provide that the county governing body of any such county may authorize the tax collector to send taxpayers notices of taxes due and receipts for taxes paid; to provide that expenses incurred in the sending of such notices and receipts shall be paid from the general fund of the county."

Section 2. Section 1 of said Act No. 395, S. 372, is amended to read as follows:

"In all counties having populations of not less than 17,000 nor more than 20,000, according to the most recent federal decennial census, the county commission of the county may, in its discretion, by resolution recorded in its minutes, authorize the tax collector of such county to send, on or about the first day of October of each year, printed notices to every taxpayer in the county, stating the amount of taxes, fees, and costs, if any, assessed and imposed against such taxpayer for the current tax year. Such notices shall be addressed to the last known address of each taxpayer listed on the current tax roll prepared by the tax assessor. The tax collector shall prescribe the form of the notices, subject to approval by the county governing body. The county governing body shall determine the manner in which the notices shall be sent."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:13 P.M.

Act No. 834

H. 1376—Carnes, Waldrop, Wynot
AN ACT

Relating to the compensation of tax assessors and tax collectors in counties having population of not less than 90,000 nor more than 100,000 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having populations of not less than 90,000 nor more than 100,000 according to the most recent decennial census, the tax assessors and tax collectors of such counties shall receive, in addition to such other compensation for expenses as may be provided by law, an annual salary in the amount of \$10,500; provided, however, that the total compensation received by such tax assessors and tax collectors shall not exceed \$12,000 per year.

Section 2. This Act shall expire and be null and void upon the expiration of the terms of office of the incumbents to whom this Act applies.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved September 7, 1971.

Time: 12:14 P.M.

Act No. 835

H. 1382—Williams

AN ACT

Relating to counties having a population of not less than 38,100, nor more than 40,500 according to the last, or any subsequent federal decennial census, which are levying a franchise, excise or privilege license tax, under the provisions of Act No. 34, 1969, Special Session of the Alabama Legislature, allowing the county governing body to pay certain expenses for the county superintendent, and providing that such provision shall not be mandatory.

Be It Enacted by the Legislature of Alabama:

Section 1. That in counties having a population of not less than 38,100, nor more than 40,500, according to the last, or any federal decennial census, which is levying a franchise, excise or privilege license tax, under the provisions of Act No. 34, 1969, Special Session of the Alabama Legislature, the governing body of such county may provide the county superintendent of education and his professional and clerical assistants necessary furniture, office equipment, stationery, postage, forms, and supplies as may be required by the county superintendent of education or his assistants, provided, however, that this provision shall not be mandatory on such governing body.

Section 2. Any laws, or parts of laws, in conflict herewith are expressly repealed.

Section 3. This Act shall be effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:15 P.M.

Act No. 836

H. 1395—Carter, Cross

AN ACT

To provide additional allowances out of the county treasury for clerk hire for temporary or part time clerks or other assistants for certain county officers in all counties having populations of not less than 39,500 nor more than 41,750 according to the most recent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other allowances for the expenses of their offices provided for them by law, the following officers of all counties having populations of not less than 39,500 nor more than 41,750, according to the most recent federal decennial census, shall be authorized to hire temporary or part-time clerks or assistants, whose compensation shall be payable out of the county treasury at the same time and in the same manner as other county employees, as follows:

The tax assessor and the tax collector shall, each, be authorized to employ one additional clerk or other assistant for a period of six months, beginning on the first day of October each year at a salary of \$260.00 per month.

The circuit clerk may employ one additional assistant clerk on a fulltime basis. Such clerk may be employed immediately

after this Act becomes law. The compensation of such clerk shall be a salary of \$260.00 per month.

The judge of probate may employ one temporary or part time clerk or other assistant for such time as when added to the time he is authorized by any other law to employ temporary or part time help will give him one part time clerk or other assistant for a period of six months beginning October 1, each year. The compensation of such clerk or other assistant shall be a salary of \$260.00 per month.

Section 2. The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this Act are repealed.

Section 4. Act No. 448 of the General Acts of Alabama, 1969 is hereby repealed.

Section 5. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:16 P.M.

Act No. 837

H. 1396—Carter, Cross

AN ACT

Relating to counties having a population of not less than 39,500 nor more than 41,750 according to the most recent federal decennial census; to authorize the county governing body in any such county to appropriate and use certain county funds and to designate and use certain county property, buildings, and facilities in order to qualify for and receive federal assistance under the federal Economic Opportunity Act of 1964.

Be It Enacted by the Legislature of Alabama:

Section 1. The court of county commissioners, board of revenue, or other like governing body in any county of the state having a population of not less than 39,500 nor more than 41,750 according to the most recent federal decennial census shall have authority to appropriate and use such sums from the general funds of the county not otherwise appropriated, and to designate and use such county property, buildings, and facilities, as may be necessary to enable the county to participate in programs and receive benefits and funds provided for and made available by and from the federal government under Public Law 88-452,

known as the Economic Opportunity Act of 1964, as approved by Congress on August 20, 1964, as amended, when such county governing body, in its discretion, considers such action to be in the best interests of the county. Provided, however, that such sums and such property, buildings, and facilities shall not be appropriated, designated, or used in any manner which conflicts with the Constitution or statutes of the State of Alabama.

Section 2. Act No. 539 of the General Acts of Alabama 1965 is hereby repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:17 P.M.

Act No. 838

H. 1397—Carter, Cross

AN ACT

To authorize the governing bodies of counties having a population of not less than 39,500 nor more than 41,750 according to the 1970 Federal Census to appropriate funds from the Highway Traffic Funds of said counties or other funds in the County treasury for law enforcement purposes in said counties, including the payment of deputy salaries, and to provide for repeal of all laws in conflict therewith.

Be It Enacted by the Legislature of Alabama:

Section 1. That the governing bodies in all counties in the State of Alabama having a population of not less than 39,500 nor more than 41,750 according to the 1970 Federal Census, may appropriate such funds as they may deem advisable from the Highway Traffic Fund of said counties or from other funds of the county treasury, to the Sheriff's office for the purpose of promoting law enforcement in such counties, and are specifically authorized to appropriate such funds for the payment of the salaries of any deputies that might be employed by the Sheriff of said county with the approval of the governing body, and to appropriate from such funds, or from any other funds of said county, money for the payment of the Deputy District Attorney, or County Solicitor, up to, but not to exceed \$500.00 per month, for the payment of such Deputy District Attorney or County Solicitor's salary.

Section 2. That all laws or parts of laws in conflict with this section shall be, and they are hereby, repealed to the extent that they so conflict herewith.

Section 3. That this Act shall become effective immediately upon its passage by the Legislature and approval by the Governor or its otherwise becoming law.

Approved September 7, 1971.

Time: 2:18 P.M.

Act No. 839

H. 1398—Carter, Cross

AN ACT

To apply only to counties having a population of not less than 39,500 nor more than 41,750 according to the most recent federal decennial census; providing for the appointment of reserve deputies sheriff; defining said reserve deputies sheriff, and providing for the qualification, authority, duties, compensation, bond and term of office of such reserve deputies sheriff, and providing for the use of county equipment, and liability of sheriff for acts of said reserve deputies sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. In all counties having a population of not less than 39,500 nor more than 41,750 according to the most recent federal decennial census, the Sheriff in such counties is hereby authorized and empowered to appoint reserve deputies sheriff to assist in the performance of duties and services of the sheriff of said counties.

Section 2. Reserve deputies sheriff, as used in this Act, shall mean those reserve deputies sheriff appointed under authority of this act to assist the Sheriff in the performance of the Sheriff's duties.

Section 3. Minimum qualification of reserve deputies sheriff shall be (a) not less than 21 years of age prior to appointment hereunder; (b) high school graduate or holder of a certificate of high school equivalency; (c) be of good moral character and reputation, and never been convicted of a felony or aggravated misdemeanor.

Section 4. Reserve deputies sheriff appointed under this act shall be exempt from making bond.

Section 5. The reserve deputies sheriff shall serve at the pleasure of the Sheriff and shall have the authority and duties as shall be prescribed by the Sheriff. However, such deputies shall not be authorized to execute the processes of courts issued in civil cases.

Section 6. Reserve deputies sheriff shall receive no compensation for their services.

Section 7. Reserve deputies sheriff are authorized to use county equipment under the direct or indirect supervision of the Sheriff and at the expense of the county in performing the duties of their office.

Section 8. The Sheriff shall not be liable for the acts of reserve deputies sheriff hereunder, except as provided by law for deputies sheriff.

Section 9. The provisions of this Act are hereby declared severable, and if any of its sections, provisions, clauses, phrases or parts be held unconstitutional or void, then the remainder of this Act shall continue in full force and effect, it being the legislative intent now hereby declared that this Act would have been adopted even if such unconstitutional or void matters had not been included therein.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:19 P.M.

Act No. 840 H. 1403—Stokes, Roberts, Therrell, Collins,
Lyons, Downing, Wood, Nettles,
Perloff, Callahan

AN ACT

To alter, extend and add to the limits of the City of Chickasaw in Mobile County, Alabama so as to include within the corporate limits of said city certain other territory in Mobile County, Alabama, contiguous to said city and to describe the area so added to the said limits of the City of Chickasaw.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines of the City of Chickasaw, Mobile County, Alabama, be, and the same are hereby altered, extended and rearranged so as to include within the corporate limits of said city the following described territory, to-wit:

Beginning at the Northeast corner of Lot 16, Block 13, North Mobile Subdivision, as shown by map of survey of North Mobile Subdivision recorded in Deed Book 145 N.S., pages 252-263 of the Probate Records of Mobile County, Alabama, which point is also the point of intersection of the west boundary line of Blackfoot Street with the south boundary line of West Lee Street (formerly Second Avenue) for the point of beginning of

the parcel herein described; thence run southwardly along the western boundary line of Blackfoot Street and a southward projection thereof a distance of 2200 feet, more or less, to a point on the centerline of Gum Tree Branch (said point being 950 feet, more or less, south of the north boundary line of Section 29, Township 3 South, Range 1 West, Mobile County, Alabama); thence run in a general southeastwardly direction along and with the meanders of the centerline of Gum Tree Branch a distance of 2350 feet, more or less, to a point on the westward projection of the south boundary line of Twelfth Avenue; thence run eastwardly along the said westward projection of the south boundary line of Twelfth Avenue a distance of 60 feet, more or less, to a point on the southward projection of the west boundary line of Fifth Place as shown in said plat of survey of North Mobile Subdivision; thence run northwardly along the said southward projection of the west boundary line of Fifth Place a distance of 730 feet, more or less, to a point on the south boundary line of Tenth Avenue; thence run westwardly along the south boundary line of Tenth Avenue a distance of 150 feet, more or less, to a point on the southward projection of the east boundary line of Erie Street; thence run northwardly along the southward projection of the said east boundary line of Erie Street and along the east boundary line of Erie Street a distance of 630 feet to a point; thence run westwardly and parallel with the south boundary line of Eighth Avenue and a westward projection thereof a distance of 500 feet, more or less, to a point on the southward projection of the west boundary line of Delaware Street; thence run north along the southward projection of the west boundary line of Delaware Street and along the west boundary line of Delaware Street a distance of 640 feet, more or less, to a point on the projection of the south boundary line of the east-west alley dividing Block 70 of said North Mobile Subdivision; thence run west along the projection of the said south boundary line of said alley a distance of 625 feet, more or less, to a point on the southward projection of the west boundary line of Second Place; thence run north along the said southward projection of the west boundary line of Second Place and along the west boundary line of Second Place a distance of 690 feet, more or less, to a point on the north boundary line of Section 29, Township 3 South, Range 1 West in Mobile County, Alabama; thence run west along the said north boundary line of said Section 29 a distance of 225 feet, more or less, to a point on the southward projection of the east boundary line of Blackfoot Street; thence run north along the southward projection of the said east boundary line of Blackfoot Street and along the east boundary line of Blackfoot Street a distance of 1250 feet, more or less, to a point on the south boundary line of West Lee Street (Formerly Second Avenue); thence run west along the said south boundary line of West Lee Street

(formerly Second Avenue) a distance of 50 feet, more or less to the northeast corner of said Lot 16 in Block 13, North Mobile Subdivision, the point of beginning.

Section 2. This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:20 P.M.

Act No. 841 H. 1408—Bowers, Timmons, Adwell, Meeks,
 Boutwell, Ellis, Weeks, Dill,
 Erdreich, Falkenburg, Jones (E),
 Doss, Parker (H), Wallace,
 Gafford

AN ACT

TO AMEND ACT NO. 79 OF THE SPECIAL SESSION OF THE LEGISLATURE OF ALABAMA OF 1966, APPROVED AUGUST 17, 1966 (ALA. ACTS, SPECIAL SESSION OF 1966, P. 106 ET SEQ.), AS HERETOFORE AMENDED, PROVIDING IN JEFFERSON COUNTY FOR THE CREATION AND MAINTENANCE OF DISTRICTS FOR FIGHTING OR PREVENTING FIRES, DISTRICTS FOR THE COLLECTION AND DISPOSAL OF GARBAGE AND DISTRICTS FOR BOTH OF THE AFORESAID PURPOSES.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5 of Act No. 79 of the Special Session of the Legislature of Alabama of 1966, approved August 17, 1966 (Ala. Acts, Special Session, 1966, p. 106 et seq.) is hereby further amended to read as follows:

Section 5. As used in this Section 5 the following terms have the meanings hereby ascribed to them: "district proposed" means the area proposed to be established as a district under the act; "abolition" means the abolition of a district under Section 15 of the act; "election hereunder" means an election held under the act; "some other election" means any election, whether general, special or primary, not held under the act.

No two elections hereunder on the creation of a district shall be held in a period of two years if the district proposed at the second of such elections contains any part of the district proposed at the first of such elections; provided, however, a period of one year between the two elections hereunder shall be sufficient if the second of such elections is held on a day whereon some other election is held in the district proposed at the second election.

No election to abolish a district shall be held at any time within two years following the date of the election creating the district; and not more than one election on the abolition of a district shall be held within a period of two years.

When a petition for the holding of any election hereunder is filed with the Probate Judge not less than thirty days and not more than sixty days prior to some other election to be held in the territory in which an election is sought by the petition, the Probate Judge shall order the election sought by the petition to be held on the same day as such other election is held.

If the petition is not filed at such time as will permit the election sought thereby to be held at the time some other election is held, as provided for in the next foregoing sentence, the Probate Judge shall order the election sought by the petition to be held on a day not less than thirty days nor more than forty days from the date on which the Probate Judge enters said order.

The provisions of this Section 5 shall apply to all elections provided for by the Act.

Section 2. Section 13 of Act No. 79 of the Special Session of the Legislature of Alabama of 1966, approved August 17, 1966 (Ala. Acts, Special Session, 1966, p. 106 et seq.) is hereby further amended to read as follows:

Section 13. Subject to the conditions stated below in this Section 13, the Board of Trustees shall be authorized to adopt service charge ordinances levying service charges provided for in Section 12, above. No service charge ordinance shall take effect and be enforced until the substance of said ordinance has been published in some newspaper of general circulation in the district and at least eight days have elapsed after such newspaper publication and at least eight days have also elapsed after such ordinance in full was posted in each fire station in the district, or at some other public place in the district if there is no such fire station. It is further provided that no such ordinance shall become effective unless it is approved at an election held in response to the petition hereinbelow provided for, or unless the time prescribed for filing such petition expires without the petition being filed.

Upon the petition, prescribed in this Section 13 being filed with the Probate Judge of the County within the time specified in said section, he shall call an election to be held in the district, as below prescribed, on the question of whether the service charge ordinance shall become effective. As hereinafter used, the term "service charge election", means an election under this

Section 13 on the question of whether a service charge ordinance shall become effective. The petition shall be addressed to the Probate Judge. It shall identify by name the district involved and shall identify the service charge ordinance, but need not set forth said ordinance. The petition shall request that an election be held in the district on the question of whether the ordinance shall become effective. The petition shall recite that each person signing the same is a qualified elector of the district. The residence address of each person signing the petition shall be stated by, or below, his signature. The number of qualified electors residing in the district signing the said petition shall not be less than the smaller of these two numbers: three hundred (300), or a number equal to one-third ($\frac{1}{3}$) of the qualified electors residing in the district.

The petition shall be filed before thirty (30) days elapse following the newspaper publication of the ordinance. If such petition is filed with the Probate Judge within that period he shall enter an order providing for an election to be held in the district on the question of whether the service charge ordinance shall become effective.

The provisions of Section 5 of this Act, now in effect or as hereafter amended, shall govern the time at which a service charge election shall be held. Notice of any service charge election shall be published as provided for in Section 7 of this Act, now in effect or as hereafter amended. At a service charge election it shall not be required that the ordinance be published in full in the voting machine or on the ballot, but the substance of the ordinance shall be stated therein.

No service charge ordinance shall become effective unless the time above prescribed for filing a petition for a service charge election expires without any such petition being filed, or unless at the service charge election, if any is held, the majority of electors voting in said election vote in favor of the service charge ordinance.

The district shall pay the cost or expense of any election, publication or proceeding in the Probate Court provided for by this Section 13.

Section 3. Section 14 of Act No. 79 of the Special Session of the Legislature of Alabama of 1966, approved August 17, 1966 (Ala. Acts, Special Session, 1966, p. 106 et seq.) is hereby further amended to read as follows:

Section 14. (a) Subject to the limitations hereinafter stated, if an entire district is annexed to a municipal corporation, the district shall thereupon be dissolved. When a district is dissolved, as aforesaid, or when any portion of a district

discontinues being a part of a district, as aforesaid, such dissolution, or such discontinuance, shall not impair the obligation of any person to the district which accrued prior to such dissolution or such discontinuance; and such dissolution or such discontinuance shall not affect the lien of the district against any property for obligations owed to the district at the time of such dissolution or such discontinuance. When a district is dissolved, as aforesaid, the Board of Trustees shall continue to exist for such period of time as shall be necessary to dispose of the property and assets of the district, as provided for in Section 15, below, and to otherwise wind up the affairs and business of the district. (b) When any portion of a district is annexed to a municipal corporation, the district and such municipal corporation shall be authorized to enter into a contract providing for the district to continue to furnish its services to said portion of the district annexed, upon such terms and conditions as are specified in the contract. (c) A district may be enlarged in accordance with the terms of this Section 14, provided, however, that no area lying within a municipality at the time of the enlargement shall be brought within the district. No area shall be brought within the district by enlargement except by an election provided for by subsection (d), below, or on petition as provided for in subsection (e), below. The term "proposed area" as used in this Section 14 means an area proposed to be brought within a district. (d) When the Board of Trustees makes a finding that the inclusion of a proposed area within the district would be to the advantage of the district and the inhabitants of the proposed area, the Board of Trustees may file in the Office of the Probate Judge a certificate describing the proposed area and reciting the said finding, accompanied by the Board's petition that there be an election in the proposed area to submit to the qualified electors thereof the question of whether said area shall be included within the district. The certificate and petition shall be signed by at least two members of the Board. Upon such certificate and petition being filed, the Probate Judge shall order an election to be held within the proposed area within the time provided for in Section 5, above, at which election the qualified electors residing within the proposed area shall vote on the question of whether such area shall be included in the district. Unless the majority of votes cast at the election vote in the affirmative on such question, the proposed area shall not be included within the district. Upon the officers canvassing the returns of the election certifying that a majority of votes cast was in favor of the inclusion of the proposed area in the district the proposed area shall become a part of the district. (e) The purpose of this subsection (e) is to obviate the considerable expense of an election on including a proposed area within a district when a clear majority of electors residing within such area file a written petition

with the governing body of the County requesting that such area be included within the district. As used in this subsection (e) the following terms shall have the meanings hereby ascribed to them: "the certificate" means a certificate of the Board of Trustees, signed by at least two members thereof, describing a proposed area and reciting that the Board of Trustees has found that it would be to the advantage of the district and the inhabitants of the proposed area that the said area be included in the district; and "the governing body" means the governing body of the County. The proposed area may be included in the district on petition in the manner prescribed in this subsection (e). In order to secure the inclusion of a proposed area within a district upon petition, the Board of Trustees shall file with the governing body the following: (1) the certificate; (2) a petition, containing a description of the proposed area, signed by qualified electors of the proposed area, with the residence address of each signer being stated therein, requesting that the proposed area be included within the district; and (3) a written statement signed by at least two members of the Board of Trustees reciting that those signing the petition constitute at least seventy percent (70%) of the qualified electors residing within the proposed area.

When the Board of Trustees has filed the certificate, petition and statement, mentioned in the sentence next above, the governing body, as soon as is convenient to it thereafter, shall order that a public hearing be held before the governing body at its regular meeting place in the courthouse on the question of including the proposed area within the district, which meeting shall be at the time stated in the said order and after the publication of the notice below prescribed. If the proposed area lies entirely within one division of the County, the hearing shall be in the courthouse of that division of the County wherein the proposed area lies. If the proposed area lies partly in both division of the County, the hearing shall be in the courthouse at Birmingham. The governing body shall cause to be published at least fifteen (15) days prior to the hearing, at the expense of the district, in some newspaper having general circulation in the proposed area, a notice stating the time, place and purpose of the hearing. Such notice need not contain a legal description of the proposed area; but the notice shall state generally the location of the area and shall state that a legal description thereof is on file with the governing body.

If after such hearing the governing body is satisfied that at least seventy percent (70%) of the qualified electors residing in the proposed area signed the petition that the said area be included in the district, the governing body shall enter an order that such proposed area be included within the district, which order shall be recorded in the minutes of the gov-

erning body. Upon said order being so recorded, the proposed area shall become a part of the district. (f) Whenever in the opinion of the Board of Trustees the public good and the welfare of the district require that the area of the district be reduced and the boundaries thereof be re-established, the said Board shall pass a resolution defining the proposed boundaries. The resolution shall be in the form of a petition to the governing body of the County, herein called "the governing body", or shall contain a petition to such governing body, requesting that the governing body re-establish the boundaries of the district as proposed in the resolution and shall state the reason for such request. The Board of Trustees shall deliver the resolution to the governing body.

The governing body shall be authorized, but not required, to re-establish the boundaries of the district, as proposed in the said resolution, subject to the conditions below stated. The governing body shall not change the boundaries of a district hereunder until after there has been a public hearing on the proposed change at a meeting of the governing body. Such hearing shall not be held until there has been published in a newspaper having general circulation in the district a notice stating the time and place of the hearing, which publication shall be not less than 15 and not more than 21 days before the hearing. It is not required that the notice describe by metes and bounds the proposed boundaries of the district. The governing body is authorized to give, or require to be given, such other and additional notice of the hearing as it deems appropriate, to the qualified electors residing in the area proposed to be excluded from the district. The district shall pay the expense of the newspaper notice above prescribed and of any other notice the governing body requires.

If the governing body, after the public hearing, concludes that the public good and the welfare of the district require that the boundaries of the district be re-established, as proposed by the Board of Trustees, the governing body is authorized, but not required, to adopt a resolution re-establishing the boundaries of the district, as proposed. Upon the adoption of such resolution the boundaries of the district shall be those fixed, or established, by the resolution.

Section 4. Section 15 of Act No. 79 of the Special Session of the Legislature of Alabama of 1966, approved August 17, 1966 (Ala. Acts, Special Session, 1966, p. 106 et seq.) is hereby further amended to read as follows:

Section 15. Any district created hereunder may be abolished in the manner provided for in this Section 15; provided, however, that no district shall be abolished when it has any indebtedness.

Upon the petition for abolition of a district, conforming to the requirements set forth below, being filed with the Probate Judge, he shall order an election on abolition of the district to be held in the district within the time provided for by Section 4, at which qualified electors residing within the district shall be entitled to vote. The number of qualified electors residing in the district signing the said petition shall not be less than the smaller of these two numbers: one hundred (100), or a number equal to ten percent (10%) of the qualified electors residing within the district. It shall contain a recital that the district is not indebted; and it shall request the Probate Judge to order an election on whether the district shall be abolished. Upon the officers canvassing the returns of the election certifying that abolition of the district was approved by a majority of the votes cast at the election, the district shall be abolished.

No election to abolish a district shall be held at any time within two years following the date of the election creating the district; and not more than one election on the abolition of a district shall be held within a period of two years.

When a district is abolished, either under Section 14, above, or under this Section 15, a committee, herein called "the committee", appointed in the manner hereinafter stated shall determine what disposition shall be made of the properties and assets of the district, in accordance with the provisions of this Section 15. The Committee shall consist of three members, each of whom shall be a qualified elector of the district. As used herein, the term "Presiding Judge, Birmingham Division", means the Presiding Judge of the Circuit Court of the Tenth Judicial Circuit of Alabama, Birmingham Division. The term "Presiding Judge, Bessemer Division" means the Presiding Judge of the Circuit Court of the Tenth Judicial Circuit of Alabama, Bessemer Division. The term "Board of Trustees" as used in this Section 15 means the Board of Trustees of the district as comprised at the time of its dissolution. When no part of a district is situated in the Bessemer Cutoff, the Committee shall consist of three members, one of whom shall be appointed by the Presiding Judge, Birmingham Division, one of whom shall be appointed by the Board of Trustees, and one of whom shall be appointed by the United States District Judge for the Southern Division of the Northern District of Alabama having the longest tenure of service on that court. When the district is located entirely within the Bessemer Cutoff, the Committee shall consist of three members, one of whom shall be appointed by the Presiding Judge, Bessemer Division, one of whom shall be appointed by the Board of Trustees and one of whom shall be appointed by the United States District Judge for the Southern Division of the Northern District of Alabama having the longest tenure of service on that court. When a

district lies partly, but not entirely, within the Bessemer Cut-off, the Committee shall consist of four members, one of whom shall be appointed by the Presiding Judge, Birmingham Division, one of whom shall be appointed by the Presiding Judge, Bessemer Division, one of whom shall be appointed by the Board of Trustees, and one of whom shall be appointed by the United States District Judge for the Southern Division of the Northern District of Alabama having the longest tenure of service on that court.

Subject to the provisions of this Section 15 the Committee shall determine what disposition shall be made of all of the proceeds and assets of the district. The Committee shall use such properties and assets of the district, or the proceeds from the sale thereof, for the acquisition, construction or establishment of some permanent improvement designed to benefit the community comprising the district at the time of its dissolution.

For the accomplishment of this purpose those who were officers of the district at the time of its dissolution shall be authorized to execute any necessary conveyance, contract or other instrument which may be necessary.

Section 5. This Act shall become effective on its approval by the Governor or on its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:21 P.M.

Act No. 842

H. 1421—Stubbs

AN ACT

To alter, re-arrange and extend the boundaries and corporate limits of the City of Alabaster so as to incorporate certain territory as described herein.

Be It Enacted by the Legislature of Alabama:

Section 1. To alter, re-arrange and extend the boundaries and corporate limits of the City of Alabaster so as to incorporate certain territory as described herein, to-wit:

Begin at the northwest corner of the South half of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 1, Township 21 South, Range 3 West; thence run easterly along the north boundary line of said S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 1, Township 21 South, Range 3 West for 1245 feet, more or less, to a point on the center line of Interstate Highway No. 65; thence run south-

westerly along the center line of I-65 for 1550 feet, more or less, to the point of intersection of the center line of I-65 and the center line of U.S. Highway No. 31; thence run north-westerly along the center line of U. S. Highway No. 31 for 990 feet, more or less, to the point of intersection of the center line of U. S. Highway No. 31 and the west boundary line of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 1, Township 21 South, Range 3 West; thence run northerly along the west boundary line of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 1, Township 21 South, Range 3 West for 896 feet, more or less, to the point of beginning; situated in Shelby County, Alabama.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:22 P.M.

Act No. 843

H. 1422—Stubbs

AN ACT

An Act, to alter, re-arrange and extend the boundaries and corporate limits of the City of Alabaster so as to incorporate certain territory as described herein.

Be It Enacted by the Legislature of Alabama:

Section 1. To alter, re-arrange and extend the boundaries and corporate limits of the City of Alabaster, so as to incorporate certain territory as described herein, to-wit:

Begin at the Southeast corner of Section 36, Township 20 South, Range 3 West; run thence in a Westerly direction along the South line of said Section to the Southwest corner of the Southeast Quarter of the Southwest Quarter of Section 36, Township 20 South, Range 3 West; thence run in a Northerly direction along the West line of the Southeast Quarter of the Southwest Quarter, the Northeast Quarter of the Southwest Quarter, the Southeast Quarter of the Northwest Quarter and the Northeast Quarter of the Northwest Quarter to the Northwest corner of the Northeast Quarter of the Northwest Quarter of Section 36, Township 20 South, Range 3 West; thence run in an Easterly direction along the North line of the Northeast Quarter of the Northwest Quarter of Section 36, Township 20 South, Range 3 West to the Southwest corner of the Southwest Quarter of the Southeast Quarter of Section 25, Township 20 South, Range 3 West; thence run in a Northerly direction along the West line of the Southwest Quarter of the Southeast Quarter

of Section 25, Township 20 South, Range 3 West to the Northwest corner of the Southwest Quarter of the Southeast Quarter of Section 25, Township 20 South, Range 3 West; thence run in a Northerly direction along the west line of the Northwest Quarter of the Southeast Quarter of Section 25, Township 20 South, Range 3 West to the Northwest corner of the Northwest Quarter of the Southeast Quarter of said Section 25; thence run in an Easterly direction along the North line of the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southeast Quarter to the Northeast corner of the Northeast Quarter of the Southeast Quarter of Section 25, Township 20 South, Range 3 West; run thence North along the West line of the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Northwest Quarter of Section 30, Township 20 South, Range 2 West to the Northwest corner of Section 30, Township 20 South, Range 2 West; thence run in an Easterly direction along the North line of the Northwest Quarter of the Northwest Quarter and the Northeast Quarter of the Northwest Quarter of Section 30, Township 20 South, Range 2 West to the Northeast corner of the Northeast Quarter of the Northwest Quarter of Section 30, Township 20 South, Range 2 West; thence run in a Northerly direction along the West line of the Southwest Quarter of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter of Section 19, Township 20 South, Range 2 West to the Northwest corner of the Northwest Quarter of the Southeast Quarter of Section 19, Township 20 South, Range 2 West; thence run in an Easterly direction along the North line of the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 19, Township 20 South, Range 2 West to the Northeast corner of the Northeast Quarter of the Southeast Quarter of Section 19, Township 20 South, Range 2 West to the Northeast corner of the Northeast Quarter of the Southeast Quarter of Section 19, Township 20 South, Range 2 West; thence run in a Northerly direction along the West line of the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Northwest Quarter of Section 20, Township 20 South, Range 2 West and the West line of the Southwest Quarter of the Southwest Quarter of Section 17, Township 20 South, Range 2 West to the Northwest corner of the Southwest Quarter of the Southwest Quarter of Section 17, Township 20 South, Range 2 West; thence run in an Easterly direction along the North line of the Southwest Quarter of the Southwest Quarter of Section 17, Township 20 South, Range 2 West to the Northeast corner of the Southwest Quarter of the Southwest Quarter of Section 17, Township 20 South, Range 2 West; thence run in a Northerly direction along the West line of the Northeast Quarter of the Southwest Quarter of Section 17, Township 20 South, Range 2 West to the Northwest corner

of the Northeast Quarter of the Southwest Quarter of Section 17, Township 20 South, Range 2 West; thence run in an Easterly direction along the North lines of the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 17, Township 20 South, Range 2 West to the Northeast corner of the Northeast Quarter of the Southeast Quarter of Section 17, Township 20 South, Range 2 West; thence run in a Southerly direction along the East line of the Northeast Quarter of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter of Section 17, Township 20 South, Range 2 West to the Southeast corner of Section 17, Township 20 South, Range 2 West; thence run in a Westerly direction along the south line of Section 17, Township 20 South, Range 2 West to the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 17, Township 20 South, Range 2 West; thence run in a Southerly direction along the East line of the Northwest Quarter of the Northeast Quarter of Section 20, Township 20 South, Range 2 West to the Southeast corner of the Northwest Quarter of the Northeast Quarter of Section 20, Township 20 South, Range 2 West; thence run in a Westerly direction along the South line of the Northwest Quarter of the Northeast Quarter of Section 20, Township 20 South, Range 2 West to the Southwest corner of the Northwest Quarter of the Northeast Quarter of Section 20, Township 20 South, Range 2 West; thence run in a Southerly direction along the East line of the Southeast Quarter of the Northwest Quarter to the Southeast corner of the Northwest Quarter of Section 20, Township 20 South, Range 2 West; thence run in a Westerly direction along the South line of the Southeast Quarter of the Northwest Quarter of Section 20, Township 20 South, Range 2 West to the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 20, Township 20 South, Range 2 West; thence run in a Southerly direction along the East line of the Northwest Quarter of the Southwest Quarter of Section 20, Township 20 South, Range 2 West to the Southeast corner of the Northwest Quarter of the Southwest Quarter of Section 20, Township 20 South, Range 2 West; thence run in a Westerly direction along the South line of the Northwest Quarter of the Southwest Quarter of Section 20, Township 20 South, Range 2 West to the Southwest corner of the Northwest Quarter of the Southwest Quarter of Section 20, Township 20 South, Range 2 West; thence run in a Southerly direction along the East line of Section 19, Township 20 South, Range 2 West to the southeast corner of Section 19, Township 20 South, Range 2 West; thence run in a Westerly direction along the South line of Section 19, Township 20 South, Range 2 West to the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 19, Township 20 South, Range 2, West; run thence in a Southerly

direction along the East line of the Northwest Quarter of the Northeast Quarter, the Southwest Quarter of the Northeast Quarter and the Northwest Quarter of the Southeast Quarter of Section 30, Township 20 South, Range 2 West to the Southeast corner of the Northwest Quarter of the Southeast Quarter of Section 30, Township 20 South, Range 2 West; run thence in a Westerly direction along the South line of the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southwest Quarter to the Southwest corner of the Northeast Quarter of the Southwest Quarter of Section 30, Township 20 South, Range 2 West; run thence in a Southerly direction along the East line of the Southwest Quarter of the Southwest Quarter of Section 30, Township 20 South, Range 2 West to the Southeast corner of the Southwest Quarter of the Southwest Quarter of Section 30, Township 20 South, Range 2 West; run thence in a Westerly direction along the South line of Section 30, Township 20 South, Range 2 West to the Southwest corner of Section 30, Township 20 South, Range 2 West; run thence in a Southerly direction along the East line of Section 36, Township 20 South, Range 3 West to the Southeast corner of Section 36, Township 20 South, Range 3 West to the point of beginning; all in Shelby County, Alabama.

Section 2. The substantive provisions of this Act shall become operative only if the Act is approved by the qualified electors who reside within that part of the territory hereinabove described which is not presently included within the corporate limits of the City of Alabaster, voting in a referendum election to be held on a day designated by the Probate Judge of Shelby County, not less than twenty nor more than forty days from the date of this enactment. The notice of the election shall be given by the Probate Judge of Shelby County, and the election shall be held, conducted and the results thereof canvassed in the manner prescribed by Article 2 of Chapter 5 of Title 37, Code of Alabama, 1940 as recompiled for giving notice of and conducting elections on the question of annexing territory to cities of twenty-five thousand or more inhabitants insofar as such provisions of said article may be appropriate; provided, however, no resolution of the municipal governing body need be made or filed with the Probate Judge, nor need a plat of map of the territory to be annexed be filed with the Probate Judge. The question shall be on the adoption of Act No. _____ of the 1971 Regular Session of the Legislature, which alters, rearranges and extends the corporate limits of the City of Alabaster in Shelby County. Each voter may furnish his own ballot, and if he desires to vote for the adoption of said Act there shall be written or printed on such ballot the word "Yes". If he desires to vote against the adoption of such Act the word "No" shall be written or printed on his ballot. The City of Alabaster shall pay all costs and expenses incident to the election.

If a majority of the votes cast in the election are "Yes", the provisions of this Act shall become operative immediately. If the majority are "No", this Act shall have no further effect.

Approved September 7, 1971.

Time: 2:23 P.M.

Act No. 844

H. 1426—Coshatt

AN ACT

Regulating the compensation and allowances of members of the St. Clair County board of education.

Be It Enacted by the Legislature of Alabama:

Section 1. In St. Clair County the members of the county board of education shall receive from the public school funds of the county \$15.00 a day and their actual traveling and hotel expenses incurred in attending meetings of the board and transacting the business of the board. The members of the county board shall not be allowed pay for more than 24 days in any one year, and their per diem pay and expenses shall be paid from the public school funds of the county.

Section 2. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 2:24 P.M.

Act No. 845

H. 1427—Coshatt

AN ACT

To amend the title of Act No. 47, H. 57, p. 2671, Acts of Alabama 1970 Special Session, so as to change the population classification figures in said act.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 47, H. 57, p. 2671, 1970 Special Session, Acts of Alabama, is hereby amended to read as follows:

"An Act Relating to counties having a population of not less than 27,900 nor more than 33,500 according to the most recent federal decennial census; by amending Act #515, H. 1028, Regular Session of Legislature 1969."

Section 2. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:25 P.M.

Act No. 846

H. 1428—Coshatt

AN ACT

To repeal Act No. 335, H. 843, approved August 10, 1965, entitled, "An Act to apply only in counties having populations of not less than 24,800 nor more than 25,400; regulating the compensation and allowances of members of the county board of education." (Acts of Alabama, 1965, p. 464).

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 335, H. 843, approved August 10, 1965, entitled, "An Act to apply only in counties having populations of not less than 24,800 nor more than 25,400; regulating the compensation and allowances of members of the county board of education," (Acts of Alabama, 1965, p. 464) is hereby expressly repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 2:26 P.M.

Act No. 847

H. 1481—Chestnut, Baker

AN ACT

To amend section XIII of Act No. 822, Acts of Alabama 1969, Regular Session, relating to Cherokee County gasoline tax so as to authorize the state department of revenue to collect such tax for Cherokee County; to require such tax collected to be deposited with the state treasurer; and to require the state treasurer to remit such tax to the governing body of Cherokee County less the costs of collection not to exceed five (5) percent.

Be It Enacted by the Legislature of Alabama:

Section 1. Section XIII, Act No. 822, Acts of Alabama 1969, Regular Session, is amended to read as follows:

Section XIII. Upon the request of the governing body of such county the state department of revenue of Alabama, with the approval of the Governor, may collect the tax imposed under this Act for and on behalf of Cherokee County; and in that event it is given all the power, jurisdiction, authority, and privileges granted to the governing body of Cherokee County here-

under and all reports, payments and information required to be made, paid or given to the governing body of such county, shall be made, paid or given to the state department of revenue under the penalties and subject to the prosecution prescribed herein. This section being for the benefit of the county, the department of revenue, and the State of Alabama, shall be chargeable only with the tax actually collected by it. Such tax collected under this Act by the state department of revenue shall be deposited with the state treasurer. On or before the tenth (10) day of the month following such collection, the state treasurer, upon order of the department of revenue, shall remit the same to the governing body of Cherokee County less the costs of collection not to exceed five (5) percent.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved September 7, 1971.

Time: 2:27 P.M.

Act No. 848

H. 1482—Chesnut, Baker

AN ACT

To amend Act No. 505, Acts of Alabama 1963, Vol. 2, page 1087, which establishes and provides for the operation of the Cherokee County Court, amending sections 4 and 10 of such act, so as to provide for only one mandatory jury session each year, and to provide further for the compensation of the official Court Reporter.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 4 and 10 of Act No. 505, of the regular session of 1963 (Acts, 1963, page 1087), which establishes and provides for the operation of such court are amended to read as follows:

"Section 4. That said court shall be held at the courthouse of Cherokee County, Alabama, and that said court shall be open at all times for the trial of cases and transactions of business. The judge of said court may determine and fix the time of holding the sessions of said court for the trial of all cases, both civil and criminal; provided, however, that all civil and criminal cases in which no jury is demanded, shall be called for trial at least once in each month, and for the trial of civil and criminal cases wherein juries have been demanded there shall be one session of court each year, and time of said session to be fixed by the court by order entered upon the minutes of the court. Provided, however, that this section shall not be

construed to prevent the continuance of any case in said court, by agreement of counsel or the parties on good cause shown to the court and when any cause is so continued to a specified time either for a cause shown to the court or by agreement of the parties or counsel, it shall not be necessary to call said case until the expiration of the time to which it has been continued, and provided further that the court shall have the right and power to call extraordinary jury sessions of said court whenever, in the judgment of the court, the same are necessary."

"Section 10. That the judge of said court shall appoint a competent person, who shall not be required to reside in Cherokee County, Alabama, capable of taking the proceedings of said court in shorthand, or by mechanical device or devices, as the official court reporter for said court, and shall make an order of appointment of such official reporter, and when so appointed may be removed by the judge of said court at his discretion, and his duties shall be the same as are now provided by law for the reporter of the Circuit Courts of the State and he shall receive the same rate of compensation for transcribing the testimony or other proceedings as are now provided for said Circuit Court Reporter, and shall receive as a salary the sum of Twelve Hundred Dollars per annum. The said annual salary of said official Court Reporter shall be paid out of the County Treasury of Cherokee County, Alabama, in equal monthly installments at the end of each month upon warrants drawn in the same manner as other employees of Cherokee County are paid."

Section 2. All laws or parts of laws which conflict with this Act are repealed.

Section 3. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved September 7, 1971.

Time: 2:28 P.M.

Act No. 849

H. 1483—Chesnut, Baker

AN ACT

To repeal Act No. 677, S. 820, approved August 29, 1969, Regular Session 1969 (Acts of Alabama, Special and regular Sessions, 1969, p. 1212), entitled, "An Act Relating to counties having a population of not less than 16,150 and not more than 17,250 according to the last federal decennial census and authorizing the Board of Revenue or other like governing body of such county to appropriate county funds to establish a contingent fund and providing for the use of such funds."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 677, S. 820, approved August 29, 1969, Regular Session 1969 (Acts of Alabama, Special and regular Sessions, 1969, p. 1212), entitled, "An Act Relating to counties having a population of not less than 16,150 and not more than 17,250 according to the last federal decennial census and authorizing the Board of Revenue or other like governing body of such county to appropriate county funds to establish a contingent fund and providing for the use of such funds," is hereby repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 2:29 P.M.

Act No. 850

H. 1484—Chesnut, Baker

AN ACT

To amend the title and Section 1 of Act No. 1159, S. 873, Regular Session 1969 (Acts 1969, p. 2168) which fixes the compensation of the judge of probate and the sheriff in certain counties classified on a population basis and to provide an effective date to begin at the next term of office.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 1159, S. 873, Regular Session 1969 (Acts 1969, p. 2168) is amended to read as follows:

"An Act To fix the compensation of the judge of probate and the sheriff in all counties having populations of not less than 15,400 and not more than 15,625 according to the last or any subsequent federal decennial census and to provide an effective date to begin at the next term of office."

Section 2. Section 1 of said Act No. 1159, S. 873, is amended to read as follows:

"Section 1. In all counties having populations of not less than 15,400 and not more than 15,625 according to the last or any subsequent federal decennial census the following county officers shall be compensated on a salary basis as follows:

1. The judge of probate shall be entitled to a salary of eight thousand four hundred dollars (\$8,400.00) per annum.

2. The sheriff shall be entitled to a salary of eight thousand and four hundred dollars (\$8,400.00) per annum.

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:30 P.M.

Act No. 851

H. 1485—Chesnut, Baker

AN ACT

To repeal Act No. 823, H. 899, approved September 8, 1961, Regular Session 1961 (Acts 1961, p. 1209), entitled, "An Act Relating to counties having a population of not less than 16,150 nor more than 17,250 inhabitants; to authorize county governing bodies to provide for payment of expenses of certain county officers."

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 823, H. 899, approved September 8, 1961, Regular Session 1961 (Acts 1961, p. 1209), entitled, "An Act Relating to counties having a population of not less than 16,150 nor more than 17,250 inhabitants; to authorize county governing bodies to provide for payment of expenses of certain county officers," is repealed.

Section 2. This Act shall take effect September 1, 1971.

Approved September 7, 1971.

Time: 2:31 P.M.

Act No. 852

H. 1486—Chesnut, Baker

AN ACT

To amend the title and Section 1 of Act No. 66, H. 32, Special Session 1964 (Acts 1964, p. 87) which regulates the compensation of election officers in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 66, H. 32, Special Session 1964 (Acts 1964, p. 87), is amended to read as follows:

"An Act Regulating the compensation of election officers in counties having populations of not less than 15,400 nor more than 15,625, according to the most recent federal decennial census."

Section 2. Section 1 of said Act No. 66, H. 32, is amended to read as follows:

"Section 1. At all elections hereafter held in counties having populations of not less than 15,400 nor more than 15,625,

according to the most recent federal decennial census, the officers appointed to hold the election shall each be entitled to ten dollars. The returning officer shall also be entitled to mileage as prescribed in Code of Alabama Recompiled 1958, Title 17, Section 198. The several claims shall be paid as preferred claims, out of monies in the county treasury not otherwise appropriated, on proper proof of service rendered. However, amounts paid to election officers under this Act for per diem or mileage in excess of the amounts prescribed by general laws shall not in any case be reimbursable by the State."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:32 P.M.

Act No. 853

H. 1487—Chesnut, Baker

AN ACT

To amend the title and Section 1 of Act No. 118, H. 426, Regular Session 1965 (Acts 1965, p. 176), which provides transportation allowances for the chairmen and members of the county commission in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 118, H. 426, Regular Session 1965 (Acts 1965, p. 176), is amended to read as follows:

"An Act To provide transportation allowances for the chairmen and members of the county commission of counties having populations of not less than 15,400 nor more than 15,625, according to the most recent federal decennial census."

Section 2. Section 1 of said Act No. 118, H. 426, is amended to read as follows:

"Section 1. In all counties having populations of not less than 15,400 nor more than 15,625, according to the most recent federal decennial census, the chairman and members of the county commission, shall each be entitled to receive ten cents per mile for each mile traveled on official business for the county, to be paid from the general funds of the county upon certificates signed by such officer. The transportation allowance provided for in this Act shall be in lieu of any other mileage or transportation allowance heretofore provided by law."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:33 P.M.

Act No. 854

H. 1488—Chesnut, Baker

AN ACT

To amend the title and Section 1 of Act No. 126, H. 115, Special Session 1965 (Acts 1965, p. 178), which authorizes the Chief Justice of the Supreme Court to assign a special Judge to the County Courts of Record in certain counties classified on a population basis where the duly elected or appointed Judge thereof is disqualified to act or is unable to attend Court on account of sickness or a vacancy has existed in the office of the Judge of said Court for more than thirty days, and to provide additional compensation to be paid such special Judge from the general fund of the County.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 126, H. 115, Special Session 1965 (Acts 1965, p. 178) is amended to read as follows:

“An Act Relating to County Courts of Record in all Counties having a population of not less than 15,400 nor more than 15,625 according to the last or any subsequent federal decennial census, authorizing the Chief Justice of the Supreme Court to assign a special Judge to said Court where the duly elected or appointed Judge thereof is disqualified to act, or is unable to attend Court on account of sickness, or a vacancy has existed in the office of the Judge of said Court for more than thirty days, and to provide additional compensation to be paid such special Judge from the general fund of the County.”

Section 2. Section 1 of said Act No. 126, H. 115, is amended to read as follows:

“Section 1. In all Counties of this State having a population of not less than 15,400 nor more than 15,625 according to the last or subsequent federal decennial census in which there is a County Court, which is a Court of Record, appeals from which are to the Supreme Court or Court of Appeals, the Chief Justice of the Supreme Court of Alabama shall have the authority to assign special Judges to conduct the Court in the event the duly elected or appointed Judge cannot attend the sessions of said Court on account of sickness or disqualification, or a vacancy has existed in the office of the Judge of said Court for more than thirty days. The authority of said special Judge so assigned by the Chief Justice shall extend over all cases pending in said County Court for so long as he may be assigned, or until the Judge of said Court resumes his duties, or the vacancy is filled by appointment or by election. It shall be the duty of

the Circuit Clerk of the Counties affected by the provision of this Act to so certify to the Chief Justice when a vacancy has existed in said office of the County Judge for more than thirty days."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:34 P.M.

Act No. 855

H. 1489—Chesnut, Baker

AN ACT

To amend the title and Section 1 of Act No. 346, H. 333, Special Session 1966 (Acts 1966, p. 489) which regulates the salary of the coroner in certain counties classified on a population basis.

Be It Enacted by the Legislature of Alabama:

Section 1. The title of Act No. 346, H. 333, Special Session 1966 (Acts 1966, p. 489), is amended to read as follows:

"An Act Relating to counties having populations of not less than 15,400 nor more than 15,625 according to the most recent federal decennial census; to regulate the salary of the coroner in any such county."

Section 2. Section 1 of said Act No. 346, H. 333, is amended to read as follows:

"Section 1. In any county having a population of not less than 15,400 nor more than 15,625 according to the most recent federal decennial census, the coroner shall be entitled to a salary of \$100 per month, which shall be payable from the general fund of the county on warrants drawn on such fund in the manner prescribed by law."

Section 3. This Act shall become effective September 1, 1971.

Approved September 7, 1971.

Time: 2:35 P.M.